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Circular No. 1202.

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

November 16, 1929.

EVIDENCE OF CITIZENSHIP.

Superseded See Circ. 1726

Registers,

U. S. Land Offices.

Sirs:

This office is in receipt of information from the Department of Labor that under the new naturalization law (act of March 2, 1929, 45 Stat. 1512), effective July 1, 1929, all certified copies of naturalization papers are to be issued by the Commissioner of Naturalization.

As the result of conferences between officials of this office and representatives of the Bureau of Naturalization and of the Department of Labor it has been agreed that the issuance of certified copies of naturalization papers for land office purposes will be discontinued and in lieu thereof the Bureau of Naturalization will in appropriate cases and on request of this office furnish statements as to the facts [illegible] the naturalization of applicants for public lands.

In cases where it is inconvenient or impossible for an applicant to furnish evidence of citizenship or declaration of intention in the form as required by instructions of May 1, 1925, Circular No. 1005, 51 L. D. 134, you may accept a sworn statement of the applicant, giving the facts as to his citizenship status, which statement should include the date of the alleged naturalization or declaration of intention, the title and location of the court in which instituted, and, when available, the number of the document in question, if the proceeding has been had since September 26, 1906. In addition, in cases of naturalization prior to September 27, 1906, there should be given the date and place of the applicant's birth and the foreign country of which he was a citizen or subject.

The citizenship showing may be incorporated in any of the forms prescribed for use in connection with the entry of public lands. Where the necessary data have been given you will accept same and proceed with the case, leaving it to this office to secure verification of the citizenship status at the proper time.

You will furnish copies hereof to proof taking officers in your district and give publicity thereto as a matter of news.

Very respectfully,

C. C. MOORE,
Commissioner.

Approved: November 16, 1929.

JOS. M. DIXON,
First Assistant Secretary.

40607

Circular No. 1206.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONTANA
Date MAR 14 1930
Hour

1365801 "C" REJ

PROOF FORMS.

1206

Registers,

U. S. Land Offices.

Gentlemen:

You are hereby directed to discontinue all use of final proof forms 4-369 testimony of claimant, and 4-369a, testimony of witness, which carry the date of approval, November 14, 1914, and you will destroy all copies of such forms approved on that date which you may have on hand.

These forms were revised August 31, 1923, and carry the words "other than under the stock-raising act" in the heading. Hereafter you will use only the revised edition. This edition does not at the present time carry the approval date.

You will notify all proof taking officers in your district in accordance with the foregoing.

Very respectfully,

THOS, C, HAVELL,

Assistant Commissioner.

1206

40880

Circular No. 1207.
(AMENDING CIRCULAR NO. 684.)

--- 0 ---

Obsolete
See Circ 1860

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

1369972

March 3, 1930.

The Secretary

of the Interior.

Sir:

Circular 684, approved April 7, 1928, provides regulations for the offering of lands at public sale under section 2455, Revised Statutes, as amended. The second subparagraph, paragraph 15, of this circular, reads as follows:

> "No person will be allowed more than one application under this proviso, except that two or more applications may be allowed to the same person if all the lands sought adjoin the same body of land owned by the applicant or included in his pending entry. An application under the first proviso will be rejected in all cases where the applicant has purchased under section 2455, or the amendments thereto, an area which, when added to the area applied for, shall exceed approximately 160 acres."

It is suggested that the paragraph be amended to read as follows:

> "No person will be allowed more than one application under this proviso, nor for more than 160 acres, except that two or more applications may be allowed to the same person if all the lands sought adjoin the same body of land owned by the applicant or included in his pending entry; nor will one who has purchased lands sold upon the application of another under the proviso be permitted to secure the offering under said proviso in his own right of an area exceeding the difference between that of the land purchased and 160 acres. The purchase of lands under the proviso will not disqualify the purchaser as an applicant for the offering of tracts actually isolated, provided the tracts sought, together with the lands so acquired, shall not exceed 320 acres in area, nor will the purchase of isolated tracts disqualify the purchaser from becoming an applicant for offering under the proviso subject to the same limitation as to aggregate area."

(over)

The proposed amendment is deemed necessary for the reason that the present regulation is somewhat confusing in its operation and there is no apparent reason why a person should not be permitted to secure the offering of 320 acres so long as not more than 160 acres is under the proviso.

Very respectfully,

C. C. MOORE,

Commissioner.

Approved: March 5, 1930.

JOHN H. EDWARDS,

Assistant Secretary.

40860

Circular No. 1209.

EXTENSION OF TIME ON OIL AND GAS PROSPECTING PERMITS UNDER ACT OF JANUARY 23, 1930 (PUBLIC NO. 35).

---0---

United States
Department of the Interior
General Land Office
Washington

March 7, 1930.

Registers,
United States Land Offices.

1209.

Gentlemen:

The act of Congress approved January 23, 1930 (Public No. 35, 71st Congress), reads as follows:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any oil or gas prospecting permit issued under the Act of February 25, 1920 (Forty-first Statutes, page 437), or extended under the Act of January 11, 1922 (Forty-second Statutes, page 356), or as further extended under the Acts of April 5, 1926 (Forty-fourth Statutes, paged 236), and March 9, 1928 (Forty-fifth Statutes, page 252), may be extended by the Secretary of the Interior for an additional period of three years in his discretion on such conditions as he may prescribe.
>
> Sec. 2. Upon application to the Secretary of the Interior, and subject to valid intervening rights and to the provisions of section 1 of this Act, any permit which has already expired because of lack of authority under existing law to make further extensions, may be extended for a period of three years from the date of this Act.

(over)

Circ. 1209

Applications for extensions of time coming within the provisions of this act will be governed by Order No. 338 of March 20, 1929, and the subsequent order of May 3, 1929, and may be filed with the Register of the district land office or with the Commissioner of the General Land Office, Washington, D. C. The application should give full and definite information regarding expenditure of money for development work under the permit and for reliable geological surveys of the lands involved. The showing must be by affidavit and state in detail the amounts and dates of such expenditures, purposes for which made, and to whom the payments were made. If the permittee has secured geological surveys of the lands, copies of the reports and maps thereof should be filed. Any other facts which the permittee believes will show equities in support of his application should be included in the showing.

In any case where the permittee has filed bond to protect a surface claimant of lands included in the permit, or because the lands are in a reclamation project, consent of the surety to remain bound during the extension period must be furnished, except where the bond by its terms covers extensions of time that may be granted. Also such bond as may be considered necessary and sufficient may be required conditioned on the abandonment, under the supervision of the supervisor of oil and gas operations, of any wells drilled on the permit lands.

Very respectfully,

C. C. MOORE,

Commissioner.

Approved: March 7, 1930.

RAY LYMAN WILBUR,

Secretary.

Part 284.36-284.39
CFR 43

41856

Still in effect 1/28/54 GD

Circular No. 1211.

(Superseding Circular No. 306.)

---0---

REGULATIONS REGARDING THE CUTTING OF TIMBER BY SETTLERS AND ENTRYMEN ON THEIR UNPERFECTED CLAIMS.

1211.

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

April 5, 1930.

1. Homestead claimants who have made bona fide settlements upon public land, surveyed or unsurveyed, and who are living upon, cultivating, and improving the same in accordance with law and the rules and regulations of this Department, with the intention of acquiring title thereto, are permitted to cut and remove, or cause to be cut and removed, from the portion thereof being cleared for cultivation, so much timber as is actually necessary for that purpose, or for buildings, fences, and other improvements on the land entered.

2. In clearing for cultivation, should there be a surplus of timber over what is needed for the purposes above specified, the claimant may sell or dispose of such surplus; but it is not allowable to denude the land of its timber for the purpose of sale or speculation before the title has been conveyed to him by patent.

3. The abandonment of a claim after the timber has been removed is presumptive evidence that the claim was made for the primary purpose of obtaining the timber.

4. A bona fide claimant is also permitted to exchange timber for lumber for improvements upon his claim, provided he exchanges timber for lumber of equal value, and only so much as is actually necessary for the required improvements, exclusive of the cost of cutting, sawing and hauling such timber or lumber to and from the mill. In other words, he has a right to cut as many trees as may be necessary to make or complete his improvements, whether 30, 40 or more, but any cutting in excess of the number of trees required for the improvements would be unlawful.

5. The act of July 3, 1926 (44 Stat. 890), provides for the sale of dead, down or seriously damaged timber under rules and regulations issued by this Department. The act applies to the disposition of this class of timber upon unperfected claims under the public land laws. Rules and regulations

(over)

Cir. 1211

governing the disposition of such timber are contained in Circular No. 1093, approved September 11, 1926 (51 L. D. 574), and copies thereof may be obtained, on request, from the Commissioner of the General Land Office, Washington, D. C., or from the Chief of Field Division of the General Land Office, of the division within which the land is situated.

This circular supersedes Circular No. 306, dated March 7, 1914.

C. C. MOORE,

Commissioner.

Approved: April 5, 1930.

JOHN H. EDWARDS,

Assistant Secretary.

Circular No. 1212.

REGULATIONS FOR THE SALE OF TOWN LOTS IN THE TOWNSITES OF LAME DEER AND BUSBY IN THE TONGUE RIVER INDIAN RESERVATION, MONTANA.

- - - O - - -

DEPARTMENT OF THE INTERIOR
General Land Office
Washington

April 3, 1930.

The Commissioner
of the General Land Office.

Sir:

Under the provisions of the act of June 3, 1926 (44 Stat. part 2, 690-692), and U. S. Revised Statutes 2381, you are directed to cause the unreserved lots in the townsites of Lame Deer and Busby, Montana, to be offered for sale in the townsite of Lame Deer on Thursday July 10, 1930, and in the townsite of Busby on Friday July 11, 1930, at public auction to the highest bidder at not less than their appraised value, in the manner and on the terms hereinafter described and under the supervision of the Commissioner of the General Land Office.

Manner.--Bids may be made either in person or by agent but not by mail nor at any time or place other than the time and place when and where the lots are offered for sale hereunder, and any person may purchase any number of lots for which he is the highest bidder. Bidders will not be required to show any qualifications as to age, citizenship, or otherwise. If any successful bidder fails to make the payment required on the date of sale the lot awarded to him shall be re-offered for sale on the following day.

Terms.--No lot will be sold for less than its appraised value. If sold for $10 or less it must be paid for in cash on the day of the sale. If sold for over $10 and not to exceed $50 the payments may be divided into three equal installments, the first installment to be paid on the day of sale and the other two in one and two years from date of sale. If the lots are sold for over $50 the payments may be divided into four equal installments, the first to be paid on the day of sale and the others due in one, two, and three years, from date of sale. Nothing herein will prevent the transfer of interest secured by the purchase and the partial payment of the lot, by deed, but the assignee will acquire no greater right than that of the original purchaser and the final entry and patent will issue to the original purchaser when all payments are made.

Owners of improvements having substantial value which were placed upon any lot or lots prior to the date of these regulations shall have a preference right to purchase such improved lot of lots at the appraised price. This preference right must be exercised at the time of the offering. All lots not covered by such preferential rights, or upon which owners fail to exercise their preference right, will be disposed of at public auction as provided by these regulations. Preference right purchasers may pay in installments as provided for other purchasers.

Forfeiture.--If any person who has made partial payment on the lot purchased fails to make any succeeding payment, required under these regulations, at the date such payment becomes due, the money deposited by such person for such lot will be forfeited and the lot after forfeiture is declared will be subject to disposition. Lots remaining unsold at the close of the sale will be subject to private entry for cash at their appraised value, or lots thereafter declared forfeited for nonpayment of any sum of the purchase price, under the terms of the sale will be subject to private entry, for cash at the price bid at sale for such lots.

All persons are warned against forming any combination or agreement which will prevent any lot from selling advantageously, or which will in any way hinder or embarrass the sale, and all persons so offending will be prosecuted under Section 59 of the Criminal Code of the United States.

The Commissioner, or his representative conducting the sale, is authorized to reject any and all bids for any lot and at any time suspend, or postpone the sale of any lot or lots to such time and place as he may deem proper, and to reappraise any lot or lots remaining unsold at the close of sale.

Very truly yours,

JOHN H. EDWARDS,

Assistant Secretary.

APPRAISAL OF LOTS IN THE TOWNSITE
OF LAME DEER, MONTANA.

Lot Nos.	1	2	3	4	5	6	7	8	9	10	11	12
	$	$	$	$	$	$	$	$	$	$	$	$
Block 1	25	35	35	35	30							
2	25	25	30	35								
4	40	40	40	40	40	40	35	35	35	35	35	35
5	10	10	10	10	25	25	35	35	35	35	35	35
6	10	10	15	15	15	15	12					
7	15	15	12	10	12							
8	17	17	17	17	17	17	17	17	17	17	17	17
9	50	50	50	50	50	50	50	50	50	50	50	50
11	15	25										
12	25	28	30	30	30	30	30					
13	25	25	25	40	40	40	20	25	25	25	20	20
14	35	35	35	35	35	35	35	35	35	35	35	35
15	20	20	20	20	20	20	30	30	30	30	30	30
16	30	30	35	35	35	35	35					
17	35	35	35	35	35	35	35	35	35	35	35	35
18	20	20	20	20	20	20	30	30	30	30	20	20
19	30	30	30	30	30	15	15	15	20	30	30	30
20	15	22	25	27	28	25						
21	20	30	30	30	30	30	15	15	15	15	15	15
22	30	10	10	30	30	30	30	30	30	30	10	10
23	15	15	15	15	30	30	30	30	30	10	10	10
24	15	25										
25	15	14	13	12	13	15	15	15	15	15	15	
26	15	15	15	15	15	15	15	15	15	15	15	15
27	15	15	15	15	15	15	15	15	15	15	15	15
28	10	10	10	10	15	10	10	10				
29	12											
30	15	15	15	8	17	15						
31	16	15	14	13	9							

TOWNSITE OF BUSBY, MONTANA.

1	5	5										
4	4	8	8	8	8	6	6	6	6	4		
5	7	7	7	7	7	7	8	8	8	8	8	5
6	5	5	5	5	5	5	5	5	5	5	5	5
7	4	4	5	5	4	4	4	4	4	4	4	4
8	5	5										
9	5	5										
10	4	4	4	4	4	4	4	4	4	4	4	4
11	7	7	7	7	7	7	15	15	15	15	15	15
12	25	30	30	30	50	50	40	45	45	45	50	50
13	30	30	30	30	30	30	30	30				
14	20	20	20	20	20	20	20	20				
15	15	15	15	15	15	15	15	15				
16	10	10										

43068

Circular No. 1218.

CREDIT ALLOWED HOMESTEAD SETTLERS AND ENTRYMEN FOR MILITARY SERVICE IN CERTAIN INDIAN WARS.

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONTANA
Date MAY 19 1930
Hour

- - - o - - -

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

May 6, 1930.

"C" AJM 1377604

Registers,

1218,

United States Land Offices.

Gentlemen:

The act of April 7, 1930 (Public No. 93), provides:

> "That in every case in which an entryman or settler upon the public lands of the United States under the homestead laws has established, or may hereafter establish, military service in accordance with the provisions of the act entitled 'An Act granting pensions to certain soldiers who served in the Indian wars from 1817 to 1898, and for other purposes,' approved March 3, 1927, the military service of such entryman or settler so established shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; except that (1) if any such entryman or settler was discharged on account of wounds received or disability incurred in line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service; and (2) no patent shall issue to any such entryman or settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year."

The benefits hereof are conferred upon such persons who come within the provisions of the act of March 3, 1927 (44 Stat. 1361), and it allows them to deduct the period of their established military service in the Indian wars from the period of compliance with the requirements of the homestead law ordinarily required or to deduct the full term of enlistment if discharged on account of wounds received or disabilities incurred in line of duty, subject, however, to the condition that no patent shall issue to any such entryman who has not resided upon, improved and cultivated his homestead for a period of at least one year.

(over)

Circ. 1218

It must be established that there was, at least, 30 days service in some military organization between January 1, 1817 and December 31, 1898, inclusive, and it is immaterial whether or not the person was regularly mustered into the service of the United States, if the service was under authority or by the approval of the United States or any State or Territory in any Indian war or campaign, or in connection with, or in the zone of any active Indian hostilities in any States or Territories of the United States.

The homesteader should furnish in support of his claim for credit for military service, a certified copy of his certificate of discharge or, where same is not possible, his affidavit, corroborated as far as possible, giving all data available regarding his military service which will be of aid in establishing the same.

From such data this office will ascertain whether the Pension Bureau has, in connection with a claim for pension under the act of March 3, 1927, adjudicated the matter of military service and if so the finding of the Pension Bureau will be binding upon, and be accepted by, the General Land Office. Where there is no data on file in, or any adjudication on the point of military service by, the Pension Bureau, this office will endeavor to secure a verification thereof by reports from the records of the War Department, where there are such records, or by reports from the records of the General Accounting Office showing payment by the United States, where there is no regular enlistment, or muster into the United States military service, or, when there is no record of service or payment for same, by satisfactory evidence from the muster rolls on file in the several States or Territorial archives, or, where no record of service has been made in the War Department or the General Accounting Office and there is no muster roll or pay roll on file in the several States or Territorial archives showing service of the applicant, or, when same has been destroyed by fire or otherwise lost, or, where there are muster rolls or pay rolls on file in the several States or Territorial archives but applicant's name does not appear thereon, the homesteader may make proof of such military service by furnishing through the Commissioner of the General Land Office evidence satisfactory to the Commissioner of Pensions.

Very respectfully,

C. C. MOORE,

Commissioner.

Approved: May 6, 1930.

JOHN H. EDWARDS,

Assistant Secretary.

Not in effect 5/27/54 NB

43584

Circular No. 1219

- - 0 - -

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONTANA
Date JUN 6 1930
Hour

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

May 16, 1930.

PROLONGED ABSENCES ACCOUNT CLIMATIC CONDITIONS--ACT OF FEBRUARY 25, 1919--SETTLEMENT CLAIMS.

Registers,

1219

United States Land Offices.

Gentlemen:

By departmental instructions of April 16, 1930, in the case of Vernon G. Huntley, Denver 042348, it was held that a homestead settler on unsurveyed lands who makes the showing required by the regulations in Circular No. 636 of March 25, 1919 (47 L. D. 95), and who gives notice of the approximate location of the lands settled upon and claimed may be granted the benefits of the act of February 25, 1919 (40 Stat. 1153), providing for prolonged absences due to climatic conditions.

Said Circular No. 636 and paragraphs 4(b) and 35(c) of Circular No. 541 of July 16, 1926, are modified accordingly.

Very respectfully,

C. C. MOORE,

Commissioner.

Circ. 1219

44107

Circular No. 1220.

INSTRUCTIONS UNDER OIL SHALE WITHDRAWAL OF APRIL 15, 1930.

(Executive Order No. 5327.)

- - - 0 - - -

RECEIVED
U.S. LAND OFFICE
BILLINGS, MONTANA
Date JUN 20 1930
Hour

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

"L" 1375265 P.J.A.

June 9, 1930.

See Circ. 1245

Registers,

United States Land Offices.

1220

Sirs:

By Executive Order (No. 5327) of April 15, 1930, made under authority and pursuant to the provisions of the act of June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497), and subject to valid existing rights, the deposits of oil shale and lands containing such deposits owned by the United States were temporarily withdrawn from lease or other disposal and reserved for the purposes of investigation, examination and classification.

In order to identify for administrative purposes the known areas affected by the order, the Secretary has approved maps prepared by the Geological Survey designating the lands containing oil shale of recognized commercial importance, in Colorado, Wyoming, and Utah. Copy of the map showing the designations is transmitted herewith to the Register of each district in which designations have been made.

The oil shale deposits and the lands so designated, title to which is in the United States, are by the order withdrawn from lease, entry, selection or other form of disposal, and you will therefore reject all applications for such lands, except applications for patent under the mining laws for metalliferous mining claims, or applications under other public land laws which are based on claims to the lands initiated prior to the date of the withdrawal.

Lands not designated on the map as oil shale, but which are in fact valuable for their oil shale deposits are also withdrawn by said order. Affirmative proof of the non-oil shale character of lands not designated on the maps as oil shale, other than the regular non-mineral affidavit, will not be required.

However, if your records show any land not designated on the map to be in fact oil shale in character, you will reject any application therefor. Any entry, filing, or selection allowed for lands which are thereafter, and prior to patent, found to be valuable for oil shale, will be subject to cancellation by appropriate proceedings.

Very respectfully,
C. C. MOORE,
Commissioner.

Approved: June 9, 1930.
RAY LYMAN WILBUR,
Secretary.

Cir. 1220

Circular No. 1221.

INSTRUCTIONS AS TO RECEIVING APPLICATIONS FOR OIL AND GAS PERMITS REPEATED.

- - - O - - -

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

1332740 "A" CAO

June 10, 1930.

Registers,

U. S. Land Offices.

Sirs:

Attention has been called to the fact that all Registers are not carrying out the instructions of the Department relative to oil and gas applications for permit.

By telegram of March 13, 1929, all Registers were directed not to receive any more of such applications and in Orders Nos. 337 and 338, like instructions were given. Notwithstanding the instructions issued some Registers have accepted oil and gas permit applications, assigned serial number thereto, issued receipt for the money paid, and thereafter rejected the applications subject to right of appeal. Others have returned the application and the money after so noting.

The original instructions of March 13, 1929, should be followed strictly. It applications for oil and gas permits are presented to you with the fee therefor, the same should be refused. If the applicant leaves the papers in the office, you should immediately return the same by mail referring to said instructions. The same action should be taken on such applications if received by mail and in no case should any record be made of such applications by assigning serial number, issuing receipt for the money, or making any notation on other records.

Very respectfully,
C. C. MOORE,
Commissioner.

Office Copy
44358

Obsolete
Amended by
No 1490

Circular No. 1222.

--- 0 ---

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

1381969 "F" P.I.B. June 12, 1930.

CERTIFICATIONS AS TO RECLAMATION AND PAYMENTS ON ENTRIES IN RECLAMATION PROJECTS OPERATED AND MAINTAINED BY IRRIGATION DISTRICTS OR WATER USERS' ASSOCIATIONS.

Registers,
United States Land Offices.

Sirs:

The general reclamation circular of May 18, 1916, is hereby amended by adding thereto paragraph 59-a, as follows:

> "On a reclamation project or part thereof operated and maintained by an irrigation district or water users' association not delinquent in its obligations to the Government in the matter of payments the certifications as to cultivation, reclamation and payments as to lands within its boundaries may be made by the superintendent of the district or association under the seal of the district or association, and when so made will be accepted and given the same force and effect as certifications made by a Government project superintendent. This provision, however, is not applicable to the Salt River Valley Water Users' Association, concerning which special instructions have been issued."

The purpose of said amendment is to authorize the acceptance of certifications as to cultivation, reclamation and payments made by superintendents of irrigation districts and water users' associations under the circumstances stated.

If for any reason certification can not be obtained as provided in paragraph 59 of the general reclamation circular or in the added paragraph 59-a, the matter should be reported to the General Land Office, and further instructions will be given.

I concur: June 12, 1930. Very respectfully,

ELWOOD MEAD, THOS. C. HAVELL,

Commissioner, Bureau of Reclamation. Acting Commissioner.

Approved: June 12, 1930.

JOHN H. EDWARDS,

Circular No. 1224

Regulations Governing Leases of Oil and Gas in and under Railroad and Other Rights of Way

1224.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, July 3, 1930.

Registers, United States Land Offices.

SIRS: Pursuant to the authority and direction of the act of Congress approved May 21, 1930 (Public No. 241), entitled "An act providing for the lease of oil and gas deposits in or under railroad and other rights of way," the following rules and regulations for the administration of and governing the exercise of the discretion and authority conferred by the act are adopted:

1. Leases will be issued only for rights of way through the geologic structure of known producing oil or gas fields.

No lease will be authorized until the Secretary of the Interior has determined that development of the right of way is necessary to offset or prevent drainage or threatened drainage of the oil and gas deposits from the right of way and consequent loss of royalty to the Government through operations on adjoining or near-by lands.

As drainage through wells on lands leased by the United States at a royalty of not less than 12½ per cent does not cause loss to the Government, leases will not be issued for rights of way through such leased lands.

Any lease will be limited in area to such part or parts of the right of way as are affected by drainage or threatened drainage.

2. No particular form of application for lease will be required, nor is an application necessary as a basis for the authorization of a lease.

Any application for lease hereunder must be filed in the United States land office of the district in which the right of way is situated, by the owner of the right of way or by his or its assignee. If filed by an assignee, the applicant should file therewith a duly executed assignment of the right to lease.

The application should detail the facts as to the ownership of the right of way, and of the assignment if the application is filed by an assignee, also as to the development of oil and gas in adjacent or near-by lands, the depth and location of the wells, the production, and the probability of drainage of the deposits in the right of way. Since rights of way are of record in the General Land Office, a description by metes and bounds is not necessary or required, but each legal subdivision through which the portion of the right of way desired to be leased extends should be described.

Circ. 1224

You will assign a current serial number to the application and promptly transmit the same to the General Land Office with report and recommendation based upon the record and the facts within your knowledge.

No filing fee will be required.

3. After the Secretary of the Interior has determined that a lease of a right of way or any portion thereof is consistent with the public interest, either upon consideration of an application for lease or on his own motion, you will be directed to serve notice on the owner or lessee of the adjoining lands, as provided in section 3 of the act, allowing him 30 days or such other time as may be provided in the notice within which to submit an offer or bid of the amount or percentage of compensatory royalty such owner or lessee will agree to pay for the extraction through wells on his or its adjoining land of the oil and gas under and from such right of way. Notice to the owner of the right of way will be given at the same time allowing him or it opportunity within the same period to submit a bid or offer as to the amount or percentage of royalty he or it will pay if a lease be awarded to the holder of the right of way.

When the time fixed in the notice has expired, you will transmit any bids or offers received, evidence of service of notices, and make report.

Award of lease to the owner of the right of way, or of a contract for the payment of compensatory royalty by the owner or lessee of the adjoining lands, will be to the bidder whose offer is determined to be to the best advantage to the United States, considering the amount of royalty to be received and the better development of the oil and gas deposits in the right of way under the respective means of production and operation.

4. The lease issued to the owner of the right of way or assignee of such owner will be substantially in form as follows:

U. S. Land Office ———
Serial No. ———

DEPARTMENT OF THE INTERIOR

Lease of oil and gas lands under the act of May 21, 1930

Date—Parties.—This indenture of lease entered into, in triplicate, this ——— day of ——— A. D., 19—, by and between the United States of America, acting in this behalf by the Secretary of the Interior, party of the first part, hereinafter called the lessor, and ——— ——— of ———, party of the second part, hereinafter called the lessee, under, pursuant, and subject to the terms and provisions of the act of Congress approved May 21, 1930 (Public No. 241), entitled "An act providing for the lease of oil and gas deposits in or under railroad and other rights of way," hereinafter referred to as the act, which is made a part hereof witnesseth:

SECTION 1. *Purposes.*—That the lessor in consideration of royalties to be paid, and the covenants to be observed as herein set forth, does hereby grant and lease to the lessee the exclusive right and privilege to drill for, mine, extract, remove, and dispose of all the oil and gas deposits in or under the following described right of way situated in the county of ———, State of ———, and more particularly described as follows: ———, together with the right to construct and maintain thereupon all works, buildings, plants, waterways, roads, telegraph or telephone lines, pipe lines, reservoirs, tanks, pumping stations, or other structures necessary to the full enjoyment hereof, for a period of 20 years.

Sec. 2. In consideration of the foregoing, the lessee hereby agrees:

(*a*) *Bond.*—To furnish a bond with approved corporate surety in the penal sum of $5,000, conditioned upon compliance with the terms of the lease.

(*b*) *Commence drilling.*—The lessee agrees within 30 days from delivery of executed lease to proceed with reasonable diligence to install on the leased ground a standard or other efficient drilling outfit and equipment, and to commence drilling, and to drill and produce only such wells as are necessary to offset drainage from the leasehold through wells on adjoining lands unless and until authorized in writing by the Secretary of the Interior to drill or produce additional wells or unless directed by said Secretary to drill and produce wells in number not greater than the number of 40-acre tracts or lots crossed by the right of way: *Provided*, That, for each month during which loss of royalty occurs by reason of drainage from the leasehold through producing wells on adjoining lands or deposits not the property of the United States or leased by the United States at lesser royalty rates, and until the drainage causing such loss shall have been fully offset by producing wells on the leasehold, the lessee shall pay a sum estimated to reimburse the United States for current loss of royalty through drainage.

(*c*) *Royalty.*—To pay the lessor a royalty of —— per cent of the value of oil or gas produced from the land leased herein (except oil or gas used for production purposes on said lands or unavoidably lost), or, on demand of the lessor, —— per cent of the oil or gas produced (except oil or gas used for production purposes on said lands, or unavoidably lost), the royalty, when paid in value, to be due and payable monthly on the 15th of each month following the month in which produced, to the receiver of public moneys of the proper land district; and when paid in kind, to be delivered in the field where produced at such times, and in such manner as may be required by the lessor: *Provided*, That when the daily average production of any oil well does not exceed 10 barrels per day, the Secretary may, in his discretion, reduce the royalty on subsequent production.

(*d*) *Sales contracts.*—To file with the Secretary of the Interior copies of all sales contracts for the disposition of oil and gas produced hereunder, except for production purposes on the land leased, and, in the event the United States shall elect to take its royalties in money instead of in oil or gas, not to sell or otherwise dispose of the products of the land leased, except in accordance with a sales contract or other method first approved by the Secretary of the Interior.

(*e*) *Monthly statement.*—To furnish monthly statements in detail in such form as may be prescribed by the lessor, showing the amount, quality, and value of all oil and gas produced and saved during the preceding calendar month as the basis for computing the royalty due the lessor. The leased premises, and all wells, improvements, machinery, and fixtures thereon or connected therewith, and all books and accounts of the lessee shall be open at all times for the inspection of any duly authorized officer of the department.

(*f*) *Plats and reports.*—To furnish annually and at such times as the Secretary shall require, in the manner and form prescribed by the Secretary of the Interior, a plat showing all development work and improvements on the leased lands, and other related information, with a report as to all buildings, structures, or other works placed in or upon said leased lands, accompanied by a report in detail as to the stockholders, investment, depreciation, and cost of operation, together with a statement as to the amount and grade of oil and gas produced and sold, and the amount received therefor, by operation hereunder.

(*g*) *Log of wells.*—To keep a log in the form prescribed by the Secretary of all the wells drilled by the lessee, showing the strata and character of the ground passed through by the drill, which log, or copy thereof, shall be furnished to said lessor on demand.

(*h*) *Diligence—Prevention of waste—Health and safety of workmen.*—To exercise reasonable diligence in drilling and operating wells for the oil and gas on the lands covered hereby while such products can be secured in paying quantities, and the lessee shall have the right, with the approval of the Secretary, to shut down the operation of any well or wells the operation of which has become unprofitable, to resume operations when such resumption may result in profit, and to abandon any well or wells that cease to produce oil and/or gas in paying quantities; to carry on all operations hereunder in a good and workmanlike manner, in accordance with approved methods and practice, having due regard for the prevention of waste of oil or gas developed on the land, or the entrance of water through wells drilled by the lessee to the oil

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sands or oil-bearing strata, to the destruction or injury of the oil deposits, the preservation and conservation of the property for future productive operations, and to the health and safety of workmen and employees; to plug securely any well before abandoning the same so as to effectually shut off all water from the oil or gas bearing strata; to conduct all mining, drilling, and related productive operations subject to the inspection of the lessor; to carry out at expense of the lessee all reasonable orders and requirements of lessor relative to prevention of waste and preservation of the property and the health and safety of workmen, and on failure so to do the lessor shall have the right to enter on the property to repair damage or prevent waste at lessee's cost; to abide by and conform to regulations in force at the time the lease is granted covering the matters referred to in this paragraph: *Provided*, That lessee shall not be held responsible for delays or casualties occasioned by causes beyond lessee's control.

(*i*) *Taxes and wages—Freedom of purchase.*—To pay when due all taxes lawfully assessed and levied under the laws of the State upon improvements, oil, and gas produced from the lands hereunder, or other rights, property, or assets of the lessee; to accord all workmen and employees complete freedom of purchase, and to pay all wages due workmen and employees at least twice each month in the lawful money of the United States.

(*j*) *Assignment of lease.*—Not to assign this lease or any interest therein, nor sublet any portion of the leased premises, except with the consent in writing of the Secretary of the Interior first had and obtained.

(*k*) *Deliver premises in case of forfeiture.*—To deliver up the premises leased, with all permanent improvements thereon, in good order and condition in case of forfeiture of this lease.

Sec. 3. The lessor expressly reserves:

(*a*) *Pipe lines to convey at reasonable rates.*—The right to require the lessee, his assignee, or beneficiary, if owner, or operator of, or owner of a controlling interest in any pipe line, or any company operating the same which may be operated accessible to the oil derived from lands under such lease, to accept and convey at reasonable rates and without discriminating the oil of the Government or of any citizen or company, not the owner of any pipe line, operating a lease or purchasing oil or gas under the provisions of this act.

(*b*) *Monopoly and fair prices.*—Full power and authority to carry out and enforce all the provisions of section 30 of the act of February 25, 1920 (41 Stat. 437), to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices to prevent monopoly and to safeguard the public welfare.

(*c*) *Helium.*—Pursuant to section 1 of the act of February 25, 1920, the lessor reserves the right to take all helium from any gas produced under this lease, but the lessee shall not be required to extract and save the helium for the lessor; in case the lessor elects to take the helium, the lessee shall deliver all gas containing same, or portion thereof desired, to the lessor in the manner required by the lessor, for the extraction of the helium in such plant or reduction works for that purpose as the lessor may provide, whereupon the residue shall be returned to the lessee with no substantial delay in the delivery of gas produced from the well to the purchaser thereof; provided, that the lessee shall not, as a result of the operation in this section provided for, suffer a diminution in value of the gas from which the helium has been extracted, or loss otherwise, for which the lessee is not reasonably compensated, save for the value of the helium extracted; the lessor further reserves the right to erect, maintain, and operate any and all reduction works and other equipment necessary for the extraction of helium on the premises leased.

Sec. 4. *Surrender and termination of lease.*—The lessee may, on consent of the Secretary of the Interior first had and obtained in writing, surrender and terminate this lease upon the payment of all rents, royalties, and other obligations due and payable to the lessor, and upon payment of all wages and moneys due and payable to the workmen employed by the lessee, and upon a satisfactory showing to the Secretary that the public interest will not be impaired; but in no case shall such termination be effective until the lessee shall have made full provision for conservation and protection of the property; upon like consent had and obtained the lessee may surrender any legal subdivisions of the area included herein.

Sec. 5. *Judicial proceedings in case of default.*—If the lessee shall fail to comply with the provisions of the act or make default in the performance or observance of any of the terms, covenants, and stipulations hereof, or of the general regulations promulgated and in force at the date hereof, and such default shall continue after service of written notice thereof by the lessor, then the lessor may institute appropriate judicial proceedings for the forfeiture and cancellation of this lease in accordance with the provisions of section 31 of said act; but this provision shall not be construed to prevent the exercise by the lessor of any legal or equitable remedy which the lessor might otherwise have. A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of this lease for any other cause of forfeiture, or for the same cause occurring at any other time.

Sec. 6. *Heirs and successors in interest.*—It is further convenanted and agreed that each obligation hereunder shall extend to and be binding upon and every benefit hereof shall inure to the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 7. *Unlawful interest.*—It is also further agreed that no Member of or Delegate to Congress or Resident Commissioner, after his election or appointment, or either before or after he has qualified, and during his continuance in office, and that no officer, agent, or employee of the Department of the Interior shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom, and the provisions of section 3741 of the Revised Statutes of the United States, and sections 114, 115, and 116 of the Codification of the Penal Laws of the United States approved March 4, 1909 (35 Stat. 1109), relating to contracts enter into and form a part of this lease so far as the same may be applicable.

In witness whereof:

THE UNITED STATES OF AMERICA,
By ——— ——— [L. S.]

Witness:
——— ——— [L. S.]
——— ——— ——— ——— [L. S.]
——— ——— ——— ——— [L. S.]
——— ——— ——— ——— [L. S.]

5. The agreement with the owner or lessee of the adjoining land to pay a compensatory royalty for the extraction through wells on his or its adjoining land of the oil and gas in or under the right of way will be in substantially the following form:

U. S. Land Office ———
Serial No. ———

Agreement to pay compensatory royalty under section 3, act of May 21, 1930 (Public No. 241)

This agreement entered into in triplicate this ——— day of ———, 19—, by and between the United States of America, acting in this behalf by the Secretary of the Interior, party of the first part, and ——— ——— of ———, party of the second part, witnesseth:

Whereas the party of the second part is the owner or lessee of ———, section —, township —, range —, ——— meridian, in the State of ———, through which the right of way of ——— ——— extends, and did, pursuant to and within the time fixed in the notice dated ———, 19—, issued under section 3 of the act of Congress approved May 21, 1930 (Public No. 241), submit to the Secretary of the Interior an offer or bid of the amount or percentage of compensatory royalty he will agree to pay to the United States for the extraction through wells on the above-described land of the oil and gas under and from said right of way, as follows: ———————————————; and

Whereas said bid or offer has been accepted by the Secretary of the Interior, and the right to extract the oil and gas from and under said right of way awarded to the party of the second part;

Now therefore, in consideration of the foregoing, the party of the second part hereby agrees:

(1) To furnish and maintain a bond with approved corporate surety in the penal sum of $5,000, conditioned upon compliance with the terms hereof, said bond being submitted herewith.

(2) To pay to the United States a royalty of —— per cent of the amount or value of ——— of all oil and gas produced and taken from the said described tracts of land adjoining the said right of way, payments to be made to the

register of the district land office monthly before the 15th day of each month for the production during the preceding month, and when paid in kind to be delivered in the field where produced at such times and in such manner as may be required by the Secretary of the Interior.

(3) To file with the Secretary of the Interior copies of all sales contracts for the disposition of oil and gas produced from said lands, except for production purposes thereon.

(4) To furnish monthly statements in detail in such form as may be prescribed by the Secretary of the Interior, showing the amount, quality and value of all oil and gas produced and saved during the preceding calendar month, as the basis of computing the royalty due hereunder. The said premises and all wells, improvements, machinery and fixtures thereon or connected therewith, and all books and accounts of the party of the second part shall be open at all times for the inspection of any duly authorized officer of the department.

(5) To furnish annually and at such times as the Secretary of the Interior may require, in the manner and form prescribed by him, a plat showing all development work and improvements on said lands, and other related information, together with a statement as to the amount and grade of oil and gas produced and sold, and the amount received therefor.

(6) To keep a log in the form prescribed by the Secretary of the Interior of all wells drilled on said lands, showing the strata and the character of the ground passed through by the drill, which log, or a copy thereof, shall be furnished to the Secretary of the Interior on demand.

(7) To drill such additional wells when and as may be required by the Secretary of the Interior, and at such sites as he may designate, for the purpose of and to reasonably extract all oil and gas from and under said right of way, and to operate all wells in accordance with approved methods and practice and so long as commercially productive.

In witness whereof:

——— ——— [L. S.]
——— ——— [L. S.]

6. Bond required under paragraph 2 (*a*) of the lease and by the contractor under agreement to pay compensatory royalty, should be in substantially the following form:

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

U. S. Land Office ———
Serial Number———

Bond of oil and gas lessee

[Act of May 21, 1930 (Public No. 241)]

Know all men by these presents, that we, ——— ———, of the county of ———, in the State of ———, as principal, and ——— ——— of the county of ———, in the State of ———, as surety, are held and firmly bound unto the United States of America in the sum of ——— dollars, lawful money of the United States, for the use and benefit of the United States and of any entryman or patentee of any portion of the land covered by the hereinafter described lease heretofore entered or patented with a reservation of the oil and gas deposits to the United States, to be paid to the United States, for which payment, well and truly to be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

Signed with our hands and sealed with our seals this ——— day of ———, in the year of our Lord one thousand nine hundred and ———.

The condition of the foregoing obligation is such that—

Whereas the said principal, by instrument dated ———, has been granted the exclusive right to drill for, mine, extract, remove, and dispose of all the oil and gas deposits in or under the following described right of way ———, under and pursuant to the provisions of the act approved May 21, 1930 (Public No. 241); and

Whereas the said principal has by such instrument entered into certain covenants and agreements set forth therein, under which operations are to be conducted;

Now, therefore, if said principal shall faithfully comply with all the provisions of the above-described lease, then the above obligation is to be void and of no effect, otherwise to remain in full force and virtue.

Signed, sealed, and delivered in presence of—

Name and address of witness:

——— ——— ——— ——— [L. S.]

Principal

———

——— ——— ——— ——— [L. S.]

Surety

———

The obligation of the bond filed with an agreement to pay compensatory royalty should read:

Whereas the said principal, by instrument dated ———, has entered into an agreement with the Secretary of the Interior for the payment to the United States of a compensatory royalty for the extraction through wells on his adjoining land of the oil and gas in and under the right of way described therein, pursuant to section 3 of the act of May 21, 1930;

Now, therefore, if said principal shall faithfully comply with the conditions of said agreement, then the above obligation is to be void and of no effect; otherwise to remain in full force and virtue.

7. The royalties to be paid under a lease, or agreement, shall in no case be less than that fixed in the so-called sliding-scale leases under the act of February 25, 1920, the minimum being 12½ and the maximum 33⅓ per cent of the amount or value of the production of oil, and the royalty on gas that fixed in the standard lease form under said act, being 12½ per cent of the value of the gas where the average production per day for the calendar month is less than 3,000,000 cubic feet, and 16⅔ per cent where the average daily production is 3,000,000 cubic feet or more; and where more than one bid is received, the royalty will be determined and fixed in accordance with the accepted bid.

8. The operating regulations approved by the Secretary of the Interior to govern the production of oil and gas under the act of February 25, 1920 (41 Stat. 437), in so far as applicable, shall likewise govern operations for the production of oil and gas under this act.

Very respectfully,

C. C. Moore, *Commissioner.*

Approved, July 3, 1930.

Ray Lyman Wilbur,
Secretary.

[Public—No. 241—71st Congress]

[H. R. 8154]

An act providing for the lease of oil and gas deposits in or under railroad and other rights of way

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Secretary of the Interior shall deem it to be consistent with the public interest he is authorized to lease deposits of oil and gas in or under lands embraced in railroad or other rights of way acquired under any law of the United States, whether the same be a base fee or mere easement: *Provided,* That, except as hereinafter authorized, no lease shall be executed hereunder except to the municipality, corporation, firm, association, or individual by whom such right of way was acquired, or to the lawful successor, assignee, or transferee of such municipality, corporation, firm, association, or individual.

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Sec. 2. That the right conferred by this act may, subject to the approval of the Secretary of the Interior, be assigned or sublet by the owner thereof to any corporation, firm, association, or individual.

Sec. 3. That prior to the award of any lease under section 1 of this act, the Secretary of the Interior shall notify the owner or lessee of adjoining lands and allow him a reasonable time, to be fixed in the notice given, within which to submit an offer or bid of the amount or percentage of compensatory royalty that such owner will agree to pay for the extraction through wells on his or its adjoining land, of the oil or gas under and from such adjoining right of way, and at the same time afford the holder of the railroad or other right of way a like opportunity within the same time to submit its bid or offer as to the amount or percentage of royalty it will agree to pay, if a lease for the extraction of the oil and gas deposits under the right of way be awarded to the holder of such right of way. In case of competing offers by the said parties in interest, the Secretary shall award the right to extract the oil and gas to the bidder, duly qualified, making the offer in his opinion most advantageous to the United States. In case but one bid or offer is received after notice duly given, he may, in his discretion award the right to extract the oil and gas to such bidder.

Sec. 4. That any lease granted by the Secretary of the Interior pursuant to this act may, in the discretion of said Secretary, contain a provision giving the lessee the right, with the approval of said Secretary, to shut down the operation of any well or wells, the operation of which has become unprofitable, to resume operations when such resumption may result in profit, and to abandon any well or wells that cease to produce oil and/or gas in paying quantities.

Sec. 5. That the royalty to be paid to the United States under any lease to be issued, or agreement made pursuant to this act, shall be determined by the Secretary of the Interior, in no case to be less than 12½ per centum in amount or value of the production nor for more than twenty years: *Provided*, That when the oil or gas is produced from land adjacent to the right of way the amount or value of the royalty to be paid to the United States shall be within the discretion of the Secretary of the Interior: *Provided further*, That when the daily average production of any oil well does not exceed ten barrels per day said Secretary may, in his discretion, reduce the royalty on subsequent production.

Sec. 6. That the Secretary of the Interior is authorized and directed to adopt rules and regulations governing the exercise of the discretion and authority conferred by this act, which rules and regulations shall constitute a part of any application or lease hereunder.

Approved, May 21, 1930.

U. S. GOVERNMENT PRINTING OFFICE: 1930

45463

Circular No. 1227

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 22, 1930.

CUSTER NATIONAL FOREST EXEMPTED FROM OPERATION OF FOREST HOMESTEAD LAW.

1227.

Registers,
U. S. Land Offices,
Billings, Montana, and
Pierre, South Dakota.

Gentlemen:

The act of Congress approved June 13, 1930 (Public 353), provides as follows:

> "That from and after the passage of this Act no applications may be accepted by the Secretary of Agriculture for the classification and listing of any land in the Custer National Forest for homestead entry under the provisions of the Act of June 11, 1906 (Thirty-fourth Statutes, page 233; United States Code, title 16, section 506), nor shall any lands be so classified for entry under the provisions of the act of August 10, 1912 (Thirty-seventh Statutes, pages 269-287): Provided, however, That the Secretary of Agriculture may, in his discretion, list limited tracts when in his opinion such action will be in the public interest and will not be injurious to other settlers or users of the national forest."

While no more applications for classification and listing of Custer National Forest lands may be accepted by the Secretary of Agriculture, the proviso of the act of June 13, 1930, vests in that officer discretionary authority to list limited tracts in that forest when in his opinion such action will be in the public interest and will not be injurious to other settlers or users of the national forest.

Should the Secretary of Agriculture list lands under this act as suitable for entry under the homestead laws the list will be filed by him with the Secretary of the Interior who will then declare the listed lands subject to entry. In so far as they are not inconsistent with this act the instructions in Circular No. 263 approved May 2, 1922 (49 L. D. 9), will be followed in the restoration of such lands to homestead entry.

Very respectfully,

C. C. MOORE,
Commissioner.

Approved: July 22, 1930.
JOS. M. DIXON,
First Assistant Secretary.

Circ. 1227

Still in effect
5/28/54 AB

(Circular No. 1229.) 45668

DESERT-LAND ENTRIES WITHIN A RECLAMATION PROJECT. ACT OF JUNE 6, 1930. GENERAL RECLAMATION CIRCULAR OF MAY 18, 1916, AMENDED.

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Part 2301
CFR 43

See Circ. 534, 637, 710, 716, 759, 1257

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

July 30, 1930.

#1229

Registers,
U. S. Land Offices.

Sirs:

The act of June 6, 1930 (Public No. 309 - 71st Congress), amends the proviso to section 5 of the act of June 27, 1906 (34 Stat., 520), so as to read as follows:

> "Provided, That if after investigation the irrigation project has been or may be abandoned by the Government, time for compliance with the desert-land law by any such entryman shall begin to run from the date of notice of such abandonment of the project and the restoration to the public domain of the lands withdrawn in connection therewith, and credit shall be allowed for all expenditures and improvements theretofore made on any such desert-land entry of which proof has been or may be filed; but if the reclamation project is carried to completion so as to make available a water supply for the land embraced in any such desert-land entry the entryman shall thereupon comply with all the provisions of the aforesaid act of June 17, 1902, and shall relinquish within a reasonable time after notice as the Secretary may prescribe and not less than two years all land embraced within his desert-land entry in excess of one farm unit, as determined by the Secretary of the Interior, and as to such retained farm unit he shall be entitled to make final proof and obtain patent upon compliance with the regulations of said Secretary applicable to the remainder of the irrigable land of the project and with the terms of payment prescribed in said act of June 17, 1902, and not otherwise. But nothing herein contained shall be held to require a desert-land entryman who owns a water right and reclaims the land embraced in his entry to accept the conditions of said reclamation act."

The effect of the act is to require a reduction of area of the desert-land entry, in case it is to be perfected under the project, to a farm unit instead of 160 acres as originally provided and to allow the entryman a minimum period of 2 years within which to make such reduction.

Pursuant to the provisions of said act, paragraphs 123, 124, and 128 of the General Reclamation Circular, approved May 18, 1916 (45 L. D. 385), are hereby amended to read as follows:

(over)

Circ. 1229

123. If after investigation the irrigation project has been or may be abandoned by the Government, the time for compliance with the law by the entryman shall begin to run from the date of notice of such abandonment of the project and of the restoration to the public domain of the lands which had been withdrawn in connection with the project. If, however, the reclamation project is carried to completion by the Government and a water supply has been made available for the land embraced in such desert-land entry, the entryman must, if he depends on the Government's project for his water supply, comply with all provisions of the reclamation law, and must under the act of June 6, 1930 (Public No. 309), relinquish or assign in not less than 2 years after notice all the land embraced in his entry in excess of one farm unit, and upon making final proof and complying with the regulations of the Department applicable to the remainder of the irrigable land of the project and with the terms of payment prescribed in the reclamation law, he shall be entitled to patent as to such retained farm unit, and final water-right certificate containing lien as provided for by the act of August 9, 1912, act of August 26, 1912, and the act of February 15, 1917; or to patent without a lien if provision therefor shall have been made as provided for by the act of May 15, 1922 (42 Stat. 541).

124. Under the act of July 24, 1912 (37 Stat. 200), desert-land entries covering lands within the exterior limits of a Government reclamation project may be assigned in whole or in part, even though water-right application has been filed for the land in connection with the Government reclamation project, or application for an extension of time in which to submit proof on the entry has been submitted, under the act of June 27, 1906 (34 Stat. 519), as amended by the act of June 6, 1930, supra, requiring reduction of the area of the entry to one farm unit.

128. Desert-land entrymen within exterior boundaries of a reclamation project who expect to secure water from the Government must relinquish or assign all of the lands embraced in their entries in excess of one farm unit in not less than 2 years after notice through the local land office, must reclaim one-half of the irrigable area covered by their water right in the same manner as private owners of land irrigated under a reclamation project, and also comply with the regulations of the Department applicable to the remainder of the irrigable land of the project.

Very respectfully,

C. C. MOORE,

Commissioner.

July 29, 1930

I concur:

P. W. DENT,

Acting Commissioner, Bureau of Reclamation.

Approved: July 30, 1930.

JOS. M. DIXON,

First Assistant Secretary.

Circular No. 1230

VACANT PUBLIC LANDS ON JULY 1, 1930

Department of the Interior,
General Land Office,
Washington, D. C., July 1, 1930.

GENERAL INFORMATION

The lands in the thirteen original States, Connecticut, Delaware, Georgia, Maryland, Massachusetts, North Carolina, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, and Virginia, also in Texas, never formed a part of the public domain; their disposition is governed by the State laws, and information concerning same should be sought from the State authorities.

There are no public lands in the State of Kentucky and Tennessee, and none is known to this office remaining undisposed of in the States of Illinois, Indiana, Iowa, Missouri, and Ohio. Small areas remain in the States of Alabama, Kansas, Louisiana, Michigan, Mississippi, Oklahoma, and Wisconsin, in widely scattered tracts, and no descriptive lists thereof are available. Entry of these lands must be made at, and all other related business transacted with, the General Land Office, at Washington, D. C., as there are no district offices in the States named.

Because of the small proportion of surveyed land, no attempt is made to give statistical information concerning the unappropriated Government land in the Territory of Alaska. The total area of the Territory is 378,165,760 acres, of which about 30,000,000 acres are reserved. Of the reserved area, 21,397,521 acres are within the boundaries of national forests. Approximately 1,940,901 acres have been surveyed under the rectangular system and special surveys by metes and bounds.

The following tables show, by States, land districts, and counties, the area of unappropriated and unreserved public lands, surveyed and unsurveyed, with a brief statement of their character.

These figures are as nearly correct as is possible under the circumstances and are mainly intended to convey general information as to the quantity, character, and location of the public lands. As a rule, the Government is unable to furnish specific information as to soil, topography, and value of the land for different purposes. It may be stated generally, however, that the remaining vacant public lands, not mineral in character, are chiefly valuable for grazing purposes, though some tillable land may be found.

The General Land Office can not advise inquirers as to the location of the unappropriated tracts in counties where only a few acres are reported as vacant. Information on that subject may be obtained by a careful examination of the records of the district land offices or of this office, which are open for inspection when not in official use.

Township diagrams and plats giving information specified below may be prepared and sold by the registers of the various district land offices at the following prices:

For a township diagram showing entered land only	$1.00
For a township plat showing form of entries, names of claimants, and character of entries	2.00
For a township plat showing form of entries, names of claimants, character of entry, and number	3.00
For a township plat showing form of entries, names of claimants, character of entry, number, and date of filing or entry, together with topography, etc	4.00

The General Land Office records are subject to reasonable inspection for the purpose of obtaining data as to vacant public land, and it will be glad to furnish information as to the status of any particular tract if the legal subdivision, section, township, and range thereof, according to the public land survey, is given, or, if unsurveyed, by its relative position to adjacent surveyed lands.

The district officers furnish prospective settlers general advice as to lands in their respective districts and literature regarding the methods of making entry. However, personal inspection must be made of the tract to be entered before application is filed, and the settler should exercise great care to satisfy himself as to its character before taking any other step.

Very respectfully,

C. C. Moore, *Commissioner.*

Approved: July 26, 1930.
Jos. M. Dixon,
First Assistant Secretary.

VACANT PUBLIC LANDS ON JULY 1, 1930

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930

[Counties containing no vacant land are omitted]

ARIZONA

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Phoenix:				
Apache	450, 000	------------	450, 000	Desert.
Cochise	450, 000	56, 000	506, 000	Mountainous and arid.
Coconino	550, 000	275, 000	825, 000	Rough and arid.
Gila	69, 000	10, 000	79, 000	Mountainous and arid.
Graham	450, 000	275, 000	725, 000	Do.
Greenlee	135, 000	100, 000	235, 000	Do.
Maricopa	1, 000, 000	1, 000, 000	2, 000, 000	Desert.
Mohave	1, 650, 000	1, 340, 000	2, 990, 000	Do.
Navajo	300, 000	------------	300, 000	Do.
Pima	600, 000	970, 000	1, 570, 000	Do.
Pinal	826, 000	210, 000	1, 036, 000	Do.
Santa Cruz	4, 880	------------	4, 880	Arid and rolling.
Yavapai	800, 000	360, 000	1, 160, 000	Mountainous and arid.
Yuma	800, 000	2, 500, 000	3, 300, 000	Desert.
Total	8, 084, 880	7, 096, 000	15, 180, 880	

ARKANSAS

Little Rock:				
Arkansas	40	------------	40	Level, overflow land.
Baxter	9, 455	------------	9, 455	Mountainous, timbered, mineral.
Benton	726	------------	726	Do.
Boone	1, 436	------------	1, 436	Do.
Carroll	1, 598	------------	1, 598	Mountainous, timbered.
Cleburne	10, 200	------------	10, 200	Do.
Conway	1, 160	------------	1, 160	Do.
Craighead	2, 600	------------	2, 600	Swampy, timbered.
Crawford	3, 080	------------	3, 080	Mountainous, timbered.
Cross	44	------------	44	Swampy, timbered.
Faulkner	480	------------	480	Broken, rough, timbered.
Franklin	1, 260	------------	1, 260	Do.
Fulton	14, 297	------------	14, 297	Do.
Garland	120	------------	120	Do.
Green	280	------------	280	Swampy, timbered.
Hot Springs	160	------------	160	Broken, timbered.
Howard	320	------------	320	Do.
Independence	4, 960	------------	4, 960	Broken, mountainous, timbered.
Izard	15, 120	------------	15, 120	Do.
Jackson	160	------------	160	Hilly, some timber.
Johnson	5, 040	------------	5, 040	Mountainous, timbered.
Lafayette	84	------------	84	Low, wet land.
Lawrence	960	------------	960	Broken, timbered.
Lincoln	80	------------	80	Low, wet land.
Logan	3, 680	------------	3, 680	Broken, timbered.
Madison	5, 843	------------	5, 843	Mountainous, timbered.
Marion	5, 465	------------	5, 465	Do.
Miller	240	------------	240	Low, wet land.
Mississippi	2, 800	------------	2, 800	Overflow land, timbered.
Monroe	40	------------	40	Do.
Montgomery	880	------------	880	Broken, mountainous, timbered.
Newton	8, 367	------------	8, 367	Do.
Perry	240	------------	240	Do.
Pike	880	------------	880	Do.
Poinsett	920	------------	920	Overflow land, timbered.
Polk	2, 480	------------	2, 480	Mountainous, timbered.
Pope	4, 320	------------	4, 320	Do.
Randolph	3, 480	------------	3, 480	Broken, rough, timbered.
Saline	120	------------	120	Do.
Scott	4, 800	------------	4, 800	Do.
Searcy	7, 552	------------	7, 552	Do.
Sebastian	2, 120	------------	2, 120	Do.
Sevier	320	------------	320	Do.
Sharp	10, 320	------------	10, 320	Do.
Stone	17, 050	------------	17, 050	Do.
Van Buren	28, 200	------------	28, 200	Do.
Washington	6, 352	------------	6, 352	Do.
White	240	------------	240	Do.
Yell	600	------------	600	Do.
Total	190, 969	------------	190, 969	

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

CALIFORNIA

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Los Angeles:				
Imperial	456, 189	133, 565	589, 754	Level, rolling, mountainous, all desert.
Kern	77, 646		77, 646	Arid, level desert, mountainous.
Los Angeles	7, 390	55	7, 445	Do.
Riverside	607, 276	635, 061	1, 242, 337	Do.
San Bernardino	2, 340, 224	724, 138	3, 064, 362	Do.
San Diego	486, 458	30, 720	517, 178	Do.
Ventura	3, 372		3, 372	Mountainous.
Total	3, 978, 555	1, 523, 539	5, 502, 094	
Sacramento:				
Alameda	271		271	Rough, mountainous.
Alpine	821	300	1, 121	Do.
Amador	9, 717		9, 717	Hilly, grazing, mineral.
Butte	11, 048	320	11, 368	Do.
Calaveras	18, 612		18, 612	Do.
Colusa	22, 679	1, 980	24, 659	Hilly, grazing.
Contra Costa	40		40	Rough.
Eldorado	17, 170		17, 170	Grazing, mineral, mountainous.
Fresno	103, 847	1, 380	105, 227	Do.
Glenn	10, 363		10, 363	Hilly, grazing.
Humboldt	2, 031	2, 999	5, 030	Mountainous, grazing, timber.
Inyo	1, 877, 112	2, 170, 301	4, 047, 413	Mountainous, desert, mineral.
Kern	462, 555	107, 061	569, 616	Mountainous, grazing, mineral.
Kings	5, 698		5, 698	Mountainous, grazing, desert.
Lake	102, 867	2, 720	105, 587	Hilly, grzaing.
Lassen	1, 015, 265	3, 453	1, 018, 718	Grazing, timber, mineral.
Madera	1, 303	600	1, 903	Mountainous, grazing.
Mariposa	28, 612		28, 612	Hilly, grazing, mineral.
Mendocino	74, 821	1, 600	76, 421	Broken, grazing.
Merced	3, 497		3, 497	Rough, mountainous.
Modoc	262, 710	71, 534	334, 244	Grazing, timber, mineral.
Mono	279, 984	33, 110	313, 094	Mountainous, grazing, mineral.
Monterey	78, 929		78, 929	Rough, mountainous.
Napa	44, 319		44, 319	Do.
Nevada	13, 233		13, 233	Mountainous, grazing, mineral.
Placer	3, 055		3, 055	Mountainous, mineral.
Plumas	1, 110	2, 591	3, 701	Mountainous, timber, mineral.
San Benito	128, 721		128, 721	Rough, mountainous.
San Bernardino	2, 229, 706	1, 311, 362	3, 541, 068	Mountainous, desert, mineral.
San Joaquin	851		851	Rough, mountainous.
San Luis Obispo	124, 903	2, 510	127, 413	Do.
Santa Barbara	5, 703		5, 703	Do.
Santa Clara	24, 512		24, 512	Do.
Shasta	83, 832	63, 405	147, 237	Mountainous, grazing, mineral.
Sierra	2, 216		2, 216	Mountainous, timber, mineral.
Siskiyou	58, 777	13, 694	72, 471	Mountainous, grazing, mineral.
Solano	1, 599		1, 599	Rough, mountainous.
Sonoma	10, 424	1, 370	11, 794	Do.
Stanislaus	18, 765		18, 765	Do.
Tehama	25, 599	429	26, 028	Hilly, grazing, mineral.
Trinity	35, 072	4, 700	39, 772	Mountainous, grazing, mineral, timber.
Tulare	67, 943	15, 895	83, 838	Mountainous, grazing.
Tuolumne	8, 681	1, 600	10, 281	Mountainous, grazing, mineral.
Yolo	26, 162	640	26, 802	Hilly, grazing.
Yuba	705		705	Hilly, rough.
Total	7, 305, 840	3, 815, 554	11, 121, 394	
State total	11, 284, 395	5, 399, 093	16, 623, 488	

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

COLORADO

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Denver:				
Boulder	6, 480	400	6, 880	Mountainous, mineral.
Chaffee	85, 870		85, 870	Grazing, mineral, mountainous.
Clear Creek	5, 562	11, 600	17, 162	Mountainous, mineral.
Delta	143, 714	1, 600	145, 314	Grazing, agricultural, mountainous.
Dolores	28, 110		28, 110	Mountainous.
Douglas	360		360	Arid, grazing, mineral.
Eagle	125, 923	2, 000	127, 923	Grazing, agricultural, mountainous.
Elbert	160		160	Mountainous, mineral.
Fremont	28, 920		28, 920	Mountainous, grazing, mineral.
Garfield	431, 092	152, 770	583, 862	Mountainous, grazing, shale, coal.
Gilpin	1, 371	3, 480	4, 815	Mountainous, grazing, mineral.
Grand	100, 173		100, 173	Mountainous, grazing, mineral, coal.
Gunnison	366, 464	84, 440	450, 904	Mountainous, grazing, agricultural.
Hinsdale	85, 940	16, 000	101, 940	Grazing.
Jackson	183, 208		183, 208	Grazing, mountainous.
Jefferson	1, 120		1, 120	Do.
Lake	15, 800	12, 800	28, 600	Do.
Larimer	25, 145		25, 145	Do.
Logan	2, 000		2, 000	Sandy, grazing, agricultural.
Mesa	621, 273	154, 290	775, 563	Grazing, agricultural, coal.
Moffat	1, 233, 106	221, 400	1, 454, 506	Mountainous, grazing, agricultural, coal.
Montrose	487, 780	59, 720	547, 500	Mountainous, grazing, agricultural.
Morgan	1, 480		1, 480	Sandy, grazing, agricultural.
Ouray	21, 780		21, 780	Mountainous, grazing.
Park	57, 598	11, 000	68, 598	Grazing, mineral.
Pitkin	10, 927	4, 000	14, 927	Mountainous, grazing.
Rio Blanco	841, 340	235, 700	1, 077, 040	Agricultural, grazing, coal.
Routt	58, 653	1, 700	60, 353	Do.
Saguache	92. 080		92, 080	Mountainous, grazing.
San Miguel	258, 210	45, 740	303, 950	Mountainous, grazing, agricultural.
Sedgwick	80		80	Grazing.
Summit	13, 960		13, 960	Mountainous, grazing.
Teller	1, 440		1, 440	Grazing, mineral.
Washington	1, 200		1, 200	Grazing, sandy.
Weld	4, 040		4, 040	Grazing.
Yuma	1, 480		1, 480	Grazing, sandy.
Total	5, 343, 839	1, 018, 640	6, 362, 479	
Pueblo:				
Alamosa	53, 117		53, 117	Mountainous.
Archuleta	93, 962	9, 128	103, 090	Mountainous, grazing, mineral.
Baca	802		802	Agricultural, grazing.
Bent	4, 927		4, 927	Do.
Chaffee	1, 121		1, 121	Agricultural, grazing, mountainous.
Cheyenne	516		516	Agricultural, grazing.
Conejos	254, 145		254, 145	Agricultural, grazing, mountainous.
Crowley	1, 080		1, 080	Agricultural, grazing.
Custer	14, 842		14, 842	Mountainous, grazing.
Dolores	20, 951	6, 400	27, 351	Agricultural, grazing, mountainous.
Elbert	160		160	Agricultural, grazing.
El Paso	804		804	Mountainous, grazing.
Fremont	274, 037	66, 447	340, 484	Do.
Hinsdale		9. 300	9, 300	Mountainous, mineral.
Huerfano	55, 039		55, 039	Agricultural, grazing.
Kiowa	1, 420		1, 420	Do.
Kit Carson	544		544	Do.
La Plata	142, 743	14, 040	156, 783	Agricultural, grazing, mountainous.
Las Animas	38, 939		38, 939	Agricultural, grazing.
Lincoln	1, 638		1, 638	Do.
Montezuma	183, 387	32, 065	215, 452	Agricultural, grazing, mountainous.
Otero	3, 600		3, 600	Agricultural, grazing, sandy.
Prowers	1, 185		1, 185	Do.
Pueblo	14, 327		14, 327	Agricultural, grazing, mountainous.
Rio Grande	76, 107		76, 107	Mountainous, grazing.
Saguache	207, 813		207, 813	Do.
San Juan		46, 023	46, 023	Mountainous, grazing, mineral.
Teller	34, 380		34, 380	Do.
Total	1, 481, 586	183, 403	1, 664, 989	
State total	6, 825, 425	1, 202, 043	8, 027, 468	

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

FLORIDA

Land district and county	Area in acres: Surveyed	Area in acres: Unsurveyed	Area in acres: Total	Character
Gainesville:				
Baker	400		400	Low pine.
Bay	40		40	Do.
Bradford	80		80	Do.
Calhoun	266		266	Do.
Citrus	125		125	Do.
Clay	286		286	Do.
Collier	80	120	200	Low pine and swamp.
Columbia	160		160	Low pine.
De Soto	128		128	Low pine and swamp.
Dixie	160		160	Low pine.
Duval	79		79	Low pine and swamp.
Escambia	105		105	Do.
Flagler	120		120	Do.
Gadsden	167		167	Low pine.
Gilchrist	540		540	Low pine and swamp.
Glades	447		447	Do.
Gulf	25		25	Do.
Hamilton	182		182	Low pine.
Hernando	29		29	Do.
Highlands	191	2, 161	2, 352	Low pine and swamp.
Holmes	231		231	Do.
Jackson	109		109	Do.
Jefferson	3	20	23	Do.
Lafayette	280		280	Do.
Lake	897		897	Do.
Lee	26		26	Swamp.
Leon	1		1	Low pine.
Levy	834		834	Do.
Liberty	635		635	Do.
Madison	83		83	Do.
Manatee	200		200	Low pine and swamp.
Marion	280		280	Low pine.
Nassau	77		77	Do.
Okaloosa	40		40	Do.
Okeechobee		1, 471	1, 471	Low pine and swamp.
Osceola	80		80	Do.
Polk	120		120	Do.
Putnam	404		404	Low pine.
St. Johns	40		40	Do.
Santa Rosa	80		80	Do.
Sarasota	276		276	Low pine and swamp.
Seminole	40		40	Do.
Suwanee	131		131	Do.
Taylor	1, 920		1, 920	Do.
Union	288		288	Do.
Volusia	480	2, 880	3, 360	Do.
Wakulla	120		120	Do.
Walton	40		40	Low pine.
Washington	920		920	Do.
Total	12, 245	6, 652	18, 897	

IDAHO

Land district and county	Area in acres: Surveyed	Area in acres: Unsurveyed	Area in acres: Total	Character
Blackfoot:				
Ada	77, 400		77, 400	Arid, mountainous, grazing.
Adams	26, 480		26, 480	Mountainous, timber, grazing.
Bannock	49, 840		49, 840	Grazing and mountainous.
Bear Lake	17, 980		17, 980	Do.
Bingham	253, 760	24, 120	277, 880	Lava and dry farming.
Blaine	455, 120	252, 800	707, 920	Mountainous and grazing.
Boise	84, 260		84, 260	Mountainous, timber, mineral, grazing.
Bonneville	11, 890	33, 909	45, 799	Lava and dry farming.
Butte	607, 280	165, 540	772, 820	Mountainous, grazing, and sagebrush.
Camas	74, 680	4, 480	79, 160	Grazing and mountainous.
Canyon	19, 960		19, 960	Arid grazing.
Caribou	30, 280	1, 920	32, 200	Grazing, mountainous.
Cassia	157, 830	17, 920	175, 750	Mountainous, lava, and grazing.
Clark	236, 180	31, 760	267, 940	Dry farming and sandy.
Custer	760, 940	180, 168	941, 108	Mountainous and grazing.
Elmore	237, 860	21, 760	259, 620	Lava and sagebrush lands.

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

IDAHO—Continued

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Blackfoot—Continued.				
Franklin	2, 080		2, 080	Grazing and mountainous.
Fremont	67, 930		67, 930	Dry farming and sandy.
Gem	48, 200		48, 200	Arid, grazing, mountainous.
Gooding	169, 040	9, 640	178, 680	Grazing and partly mountainous.
Idaho	44, 860	113, 987	158, 847	Arid, timber, grazing, mineral.
Jefferson	256, 940		256, 940	Dry farming and sandy.
Jerome	124, 600		124, 600	Lava and sagebrush plains.
Lemhi	432, 140	78, 217	510, 357	Mountainous and grazing.
Lincoln	310, 900	195, 840	506, 740	Lava, plains, and grazing.
Madison	4, 990		4, 990	Mountainous.
Minidoka	119, 640	101, 700	221, 340	Agricultural and sagebrush plains.
Oneida	147, 880		147, 880	Mountainous.
Owyhee	2, 996, 400	507, 958	3, 504, 358	Lava, grazing, and sagebrush.
Payette	49, 300		49, 300	Arid, mountainous, grazing.
Power	184, 800	39, 000	223, 800	Mountainous.
Teton	2, 640	8, 320	10, 960	Do.
Twin Falls	341, 280	21, 760	363, 040	Agricultural and sagebrush plains.
Valley	3, 080		3, 080	Arid, mountainous, mineral, timber.
Washington	139, 800		139, 800	Do.
Total	8, 548, 240	1, 810, 799	10, 359, 039	
Coeur d'Alene:				
Benewah	28, 678		28, 678	Timber, rough, grazing.
Bonner	20, 929		20, 929	Timber, grazing, mining.
Boundary	4, 932		4, 932	Timber, second growth, grazing.
Clearwater	12, 133		12, 133	Grazing, timber, mining.
Idaho	36, 251	35, 280	71, 531	Do.
Kootenai	18, 777		18, 777	Do.
Latah	1, 440		1, 440	Do.
Lewis	5, 460		5, 460	Do.
Nez Perce	12, 788		12, 788	Do.
Shoshone	75, 863	6, 400	82, 263	Do.
Total	217, 251	41, 680	258, 931	
State total	8, 765, 491	1, 852, 479	10, 617, 970	

MINNESOTA

Land district and county	Surveyed	Unsurveyed	Total	Character
Cass Lake:				
Aitkin	651		651	Low, wet.
Beltrami	21, 883		21, 883	Generally swampy.
Bigstone	4		4	Low.
Carlton	280		280	Swampy.
Cass	1, 008		1, 008	Low, wet.
Clearwater	277		277	Rolling, swampy.
Douglas	1		1	Low.
Hubbard	2		2	Rough.
Itasca	2, 262		2, 262	Rough, swampy.
Kanabec	40		40	Swampy.
Kandiyohi	40		40	Low.
Koochiching	76, 437		76, 437	Sandy, swampy.
Lake	705		705	Rocky, broken.
Lake of the Woods	71, 856		71, 856	Agricultural, timbered, swampy.
Marshall	793		793	Swampy.
Morrison	40		40	Sandy.
Ottertail	4		4	Swampy.
Pine	240		240	Low, sandy.
Polk	84		84	Low, wet.
Red Lake	103		103	Swampy.
Roseau	10, 925		10, 925	Swampy, partly drained.
St. Louis	2, 094		2, 094	Swampy, agricultural.
Wadena	114		114	Low, wet.
Wright	2		2	Rolling.
Total	189, 845		189, 845	

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

MONTANA

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Billings:				
Beaverhead	30, 115		30, 115	Rough, mountainous, grazing.
Big Horn	37, 400		37, 400	Farming, grazing, mountainous.
Broadwater	10, 840		10, 840	Rough, grazing, mountainous.
Carbon	221, 252	10, 600	231, 852	Do.
Carter	416, 648		416, 648	Farming, grazing.
Chouteau	14, 926		14, 926	Rough, grazing, mountainous.
Custer	243, 284		243, 284	Grazing, rough, farming.
Dawson	47, 574		47, 574	Do.
Fallon	34, 442		34, 442	Do.
Fergus	202, 219		202, 219	Do.
Gallatin	19, 284		19, 284	Grazing, mountainous.
Garfield	653, 832		653, 832	Grazing, rough, farming.
Golden Valley	10, 151		10, 151	Grazing, mountainous.
Jefferson	11, 958		11, 958	Do.
Judith Basin	4, 279		4, 279	Grazing, mountainous, farming.
McCone	95, 306		95, 306	Do.
Madison	31, 889		31, 889	Do.
Musselshell	20, 522		20, 522	Do.
Park	20, 624		20, 624	Mountainous, grazing.
Petroleum	210, 840		210, 840	Rough, grazing, farming.
Powder River	209, 657		209, 657	Rough, grazing.
Prairie	45, 296		45, 296	Do.
Richland	11, 410		11, 410	Rough, grazing, farming.
Rosebud	222, 740		222, 740	Do.
Stillwater	12, 150		12, 150	Mountainous, grazing.
Sweetgrass	19, 254		19, 254	Rough, grazing, farming.
Treasure	10, 113		10, 113	Do.
Wheatland	3, 194		3, 194	Do.
Wibaux	26, 760		26, 760	Do.
Yellowstone	11, 826		11, 826	Mountainous, rough, grazing.
Total	2, 909, 785	10, 600	2, 920, 385	
Great Falls:				
Beaverhead	410, 238	38, 720	448, 958	Agricultural, grazing, mountainous.
Blaine	266, 343		266, 343	Grazing, hilly, mountainous.
Broadwater	48, 250		48, 250	Agricultural, grazing, hilly.
Cascade	32, 644	320	32, 964	Do.
Chouteau	97, 456		97, 456	Do.
Daniels	8, 482		8, 482	Grazing and mountainous.
Deer Lodge	15, 796	12, 420	28, 216	Do.
Fergus	8, 561		8, 561	Lightly timbered or burned over.
Flathead	14, 324		14, 324	Grazing and mountainous.
Gallatin	1, 520		1, 520	Agricultural and grazing.
Garfield	95, 602		95, 602	Agricultural, grazing, mountainous.
Glacier	4, 273		4, 273	Grazing and mountainous.
Granite	42, 293		42, 293	Agricultural and grazing.
Hill	21, 854		21, 854	Grazing and mountainous.
Jefferson	60, 866		60, 866	Grazing and hilly.
Judith Basin	4, 464		4, 464	Grazing, timbered, mountainous.
Lake	3, 320		3, 320	Do.
Lewis and Clark	69, 028		69, 028	Grazing, hilly, mountainous.
Liberty	14, 866		14, 866	Agricultural, grazing, hilly.
Lincoln	9, 491		9, 491	Lightly timbered and burned over.
Madison	180, 507		180, 507	Grazing, hilly, mountainous.
McCone	138, 777		138, 777	Agricultural and grazing.
Meagher	16, 141		16, 141	Grazing and hilly.
Mineral	4, 410		4, 410	Grazing and mountainous.
Missoula	36, 028	13, 160	49, 188	Do.
Park	680		680	Do.
Phillips	882, 716		882, 716	Agricultural and grazing.
Pondera	18, 024		18, 024	Do.
Powell	68, 167		68, 167	Grazing and mountainous.
Ravalli	10, 174	4, 640	14, 814	Do.
Richland	33, 391		33, 391	Agricultural and grazing.
Roosevelt	51, 479		51, 479	Do.
Sanders	20, 873	10, 880	31, 753	Grazing and mountainous.
Sheridan	14, 447		14, 447	Agricultural and grazing.
Silver Bow	45, 413		45, 413	Grazing, hilly, mountainous.
Teton	27, 460		27, 460	Grazing and hilly.
Toole	45, 680		45, 680	Agricultural and grazing.
Valley	776, 595		776, 595	Do.
Wheatland	519		519	Grazing and hilly.
Total	3, 601, 152	80, 140	3, 681, 292	
State total	6, 510, 937	90, 740	6, 601, 677	

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

NEBRASKA

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Alliance:				
Arthur	173	------------	173	Sandy, grazing.
Banner	80	------------	80	Prairie table-land.
Blaine	1,893	------------	1,893	Sandy, grazing.
Boone	275	------------	275	Do.
Box Butte	80	------------	80	Rough, grazing.
Boyd	62	------------	62	Overflowed.
Brown	3,199	------------	3,199	Sandy, grazing.
Burt	396	------------	396	Overflowed.
Cherry	4,436	------------	4,436	Sandy, grazing.
Cheyenne	40	------------	40	Rough, grazing.
Custer	24	------------	24	Overflowed.
Dawes	469	------------	469	Rough, grazing.
Dundy	81	------------	81	Sandy, rough.
Garden	518	------------	518	Sandy, grazing.
Grant	55	------------	55	Rough, grazing.
Hayes	120	------------	120	Do.
Hitchcock	40	------------	40	Do.
Holt	380	------------	380	Sandy, grazing.
Hooker	2,063	------------	2,063	Do.
Keya Paha	53	------------	53	Grazing.
Knox	423	------------	423	Overflowed.
Lincoln	160	------------	160	High prairie.
Logan	240	------------	240	Sandy, grazing.
Loup	400	------------	400	Do.
McPherson	922	------------	922	Do.
Morrill	454	------------	454	Do.
Red Willow	36	------------	36	Rough, grazing.
Rock	520	------------	520	Sandy, grazing.
Sarpy	18	------------	18	Overflowed.
Saunders	6	------------	6	Do.
Sheridan	190	------------	190	Sand-hill grazing.
Sioux	1,606	------------	1,606	Rough, grazing.
Thomas	2,957	------------	2,957	Sandy, grazing.
Washington	139	------------	139	Overflowed.
Wheeler	120	------------	120	Sandy, grazing.
Total	22,628	------------	22,628	

NEVADA

Land district and county	Surveyed	Unsurveyed	Total	Character
Carson City:				
Churchill	1,103,905	1,257,238	2,361,143	Mountainous, arid, grazing, little timber.
Clark	1,711,776	829,916	2,541,692	Do.
Douglas	114,199	4,402	118,601	Mountainous, arid, grazing.
Elko	6,077,027	1,059,430	7,136,457	Do.
Esmeralda	141,260	775,041	916,301	Mountainous.
Eureka	1,228,552	874,107	2,102,659	Do.
Humboldt	2,151,706	2,315,624	4,467,330	Do.
Lander	1,782,490	961,545	2,744,035	Do.
Lincoln	2,531,438	4,069,907	6,601,345	Do.
Lyon	358,170	204,449	662,619	Do.
Mineral	1,371,548	591,050	1,962,598	Mountainous, arid, grazing, little timber.
Nye	4,239,923	5,425,518	9,665,441	Mountainous, arid, grazing.
Ormsby	25,485	19,980	45,465	Mountainous, arid, grazing, second-growth timber.
Pershing	1,831,446	822,722	2,654,168	Do.
Storey	93,454	1,272	94,726	Mountainous, arid, grazing.
Washoe	2,171,966	491,115	2,663,081	Do.
White Pine	3,130,343	1,686,489	4,816,832	Mountainous, arid, grazing, second-growth timber.
Total	30,064,688	21,489,805	51,554,493	

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

NEW MEXICO

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Las Cruces:				
Catron	285,779	5,720	291,499	Grazing, mountainous land.
Chaves	936,246	58,045	994,291	Agricultural, grazing.
Dona Ana	1,339,351	93,479	1,432,830	Agricultural, grazing, arid.
Eddy	1,142,027	92,160	1,234,187	Agricultural, grazing.
Grant	432,392	244,080	676,472	Mountainous.
Hidalgo	815,129	113,160	928,289	Arid, mountainous.
Lea	405,514		405,514	Grazing, agricultural
Lincoln	423,166	25,810	448,976	Prairie, grazing.
Luna	683,256	196,800	880,056	Do.
Otero	1,791,897	145,040	1,936,937	Mountainous, prairie.
Roosevelt	9,957		9,957	Grazing.
Sierra	648,200	11,720	659,920	Agricultural, mountainous.
Socorro	1,468,337	177,630	1,645,967	Do.
Torrance	8,569		8,569	Grazing.
Total	10,389,820	1,163,644	11,553,464	
Santa Fe:				
Bernalillo	27,627	1,119	28,746	Grazing, agricultural.
Catron	281,388	8,000	289,388	Mountainous, grazing.
Chaves	107,072	25,647	132,719	Grazing, agricultural.
Colfax	3,968		3,968	Do.
Curry	1,560		1,560	Do.
De Baca	44,256	17,041	61,297	Do.
Guadalupe	93,606		93,606	Do.
Harding	8,114		8,114	Do.
Lincoln	172,693		172,693	Do.
McKinley	375,338	60,286	435,624	Mountainous, grazing, coal.
Mora	8,909		8,909	Do.
Quay	36,688		36,688	Grazing.
Rio Arriba	431,617		431,617	Grazing, agricultural, coal.
Roosevelt	4,331		4,331	Grazing.
Sandoval	353,825	21,202	375,027	Mountainous, grazing, coal.
San Juan	943,123	18,113	961,236	Grazing, agricultural, coal.
San Miguel	63,325		63,325	Grazing, agricultural.
Santa Fe	85,094	7,958	93,052	Mountainous, grazing, coal.
Socorro	112,893	5,600	118,493	Do.
Taos	168,064	2,386	170,450	Mountainous, grazing.
Torrance	41,793		41,793	Do.
Union	11,744		11,744	Do.
Valencia	549,633	16,644	566,277	Do.
Total	3,926,661	183,996	4,110,657	
State total	14,316,481	1,347,640	15,664,121	

NORTH DAKOTA

Land district and county	Surveyed	Unsurveyed	Total	Character
Bismarck:				
Benson	960		960	Grazing.
Billings	23,710		23,710	Do.
Bottineau	40		40	Do.
Bowman	26,840		26,840	Do.
Burke	218		218	Do.
Burleigh	1,997		1,997	Do.
Cavalier	190		190	Do.
Dickey	387		387	Do.
Divide	440		440	Do.
Dunn	10,200		10,200	Do.
Emmons	1,342		1,342	Do.
Golden Valley	4,730		4,730	Do.
Grant	760		760	Do.
Kidder	705		705	Do.
Logan	250		250	Do.
McHenry	1,060		1,060	Do.
McIntosh	280		280	Do.
McKenzie	48,600		48,600	Do.
McLean	1,447		1,447	Do.
Mercer	382		382	Do.
Morton	497		497	Do.

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

NORTH DAKOTA—Continued

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Bismarck—Continued.				
Mountrail	1,454		1,454	Grazing.
Oliver	109		109	Do.
Pembina	80		80	Do.
Pierce	1,920		1,920	Do.
Renville	160		160	Do.
Richland	76		76	Do.
Sargent	480		480	Do.
Sheridan	443		443	Do.
Sioux	7,832		7,832	Do.
Slope	6,310		6,310	Do.
Stutsman	202		202	Do.
Ward	96		96	Do.
Williams	2,308		2,308	Do.
Total	146,505		146,505	

OREGON

Land district and county	Surveyed	Unsurveyed	Total	Character
Lakeview:				
Crook	37,000		37,000	Grazing.
Deschutes	185,135		185,135	Grazing. Some timber.
Klamath	226,547	8,320	234,867	Do.
Lake	2,378,417		2,378,417	Do.
Total	2,827,099	8,320	2,835,419	
Roseburg:				
Benton	26,842		26,842	Timber, grazing, agricultural.
Clackamas	40,707		40,707	Hilly, grazing, timber, agricultural.
Clatsop	1,445		1,445	Hilly, grazing.
Columbia	5,383		5,383	Hilly, grazing, agricultural.
Coos	42,526		42,526	Timber, grazing.
Curry	43,990		43,990	Mountainous, timber.
Douglas	171,982		171,982	Mineral, grazing, timber.
Jackson	286,181		286,181	Timber, grazing, fruit.
Josephine	174,345		174,345	Timber, grazing, mineral.
Klamath	5,640		5,640	Mountainous, timber.
Lane	67,065		67,065	Timber, grazing, mineral.
Lincoln	17,526		17,526	Broken, grazing.
Linn	12,865		12,865	Hilly, grazing.
Marion	8,097		8,097	Hilly, grazing, timber, agricultural.
Polk	4,362		4,362	Do.
Tillamook	46,098		46,098	Do.
Washington	2,680		2,680	Do.
Yamhill	12,232		12,232	Do.
Total	971,926		971,926	
The Dalles:				
Baker	238,800		238,800	Rough, hilly, mountainous, grazing.
Crook	341,920	7,800	349,720	Do.
Deschutes	121,920		121,920	Do.
Gilliam	14,280		14,280	Do.
Grant	147,800	480	148,280	Do.
Jefferson	23,160		23,160	Do.
Harney	3,874,340	35,791	3,910,131	Do.
Malheur	4,277,000	28,327	4,305,327	Do.
Morrow	5,800		5,800	Do.
Sherman	10,320	640	10,960	Do.
Umatilla	5,280	8,853	14,133	Do.
Union	3,320		3,320	Do.
Wallowa	8,960	2,200	11,160	Do.
Wasco	15,000		15,000	Do.
Wheeler	89,800		89,800	Do.
Total	9,177,700	84,091	9,261,791	
State total	12,976,725	92,411	13,069,136	

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

SOUTH DAKOTA

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Pierre:				
Bennett	10,540		10,540	Rough, hilly, grazing.
Brule	600		600	Do.
Butte	74,080		74,080	Rolling, broken, grazing.
Campbell	280		280	Do.
Charles Mix	200		200	Rough, grazing.
Clark	200		200	Under water; nontillable.
Corson	61,460		61,460	Agriculture and grazing.
Custer	17,600		17,600	Rough, broken, grazing.
Dewey	30,360		30,360	Agricultural and grazing.
Fall River	20,200		20,200	Rough, grazing.
Haakon	12,400		12,400	Do.
Harding	19,120		19,120	Agricultural and grazing.
Jackson	13,920		13,920	Mostly bad lands; grazing.
Lawrence	920		920	Rough, grazing, some timber.
Meade	21,400		21,400	Rough, hilly, grazing.
Mellette	2,400		2,400	Do.
Pennington	71,040		71,040	Rolling, rough, grazing.
Potter	160		160	Rough, grazing.
Perkins	8,400		8,400	Agricultural and grazing.
Roberts	80		80	Low, wet, nontillable.
Spink	600		600	Lake bed, nontillable.
Stanley	21,600		21,600	Rough, hilly, grazing.
Sully	160		160	Rough, grazing.
Walworth	160		160	Do.
Ziebach	51,760		51,760	Agricultural and grazing.
Sioux (N. Dak.)	240		240	Do.
Total	439,880		439,880	

UTAH

Land district and county	Surveyed	Unsurveyed	Total	Character
Salt Lake City:				
Beaver	819,028	296,705	1,115,733	Arid, rough, winter grazing.
Box Elder	703,630	326,880	1,030,510	Do.
Cache	10,587		10,587	Arid, rough, waste.
Carbon	108,731	40,020	148,751	Arid, rough, mineral, waste.
Daggett	121,098		121,098	Rough, mountainous, suitable for grazing.
Davis	4,018		4,018	Arid, waste, winter grazing.
Duchesne	36,375		36,375	Rough, mountainous, mineral.
Emery	808,351	807,550	1,615,901	Do.
Garfield	586,241	1,382,759	1,969,000	Mountainous, summer grazing.
Grand	970,710	770,218	1,740,928	Mountainous, grazing, mineral.
Iron	743,590	40,760	784,350	Rough, winter grazing, mineral.
Juab	572,767	747,480	1,320,247	Rough, winter grazing.
Kane	565,029	1,276,560	1,841,589	Rough, mountain grazing.
Millard	1,485,499	1,259,845	2,745,344	Rough, winter grazing.
Morgan	6,805		6,805	Mountainous, summer grazing.
Piute	123,073	10,880	133,953	Mountainous, spring grazing.
Rich	181,572		181,572	Mountainous, summer grazing.
Salt Lake	3,170		3,170	Arid, winter grazing.
San Juan	1,051,460	1,528,587	2,580,047	Rough, mountainous, mineral.
San Pete	125,505		125,505	Do.
Sevier	137,271	59,840	197,111	Do.
Summit	4,718		4,718	Mountainous, summer grazing.
Tooele	1,560,610	1,956,916	3,517,526	Arid, winter grazing, mineral.
Uintah	592,136	43,257	635,393	Rough, mountainous, suitable for grazing.
Utah	51,767		51,767	Rough, mountainous, grazing.
Wasatch	25,023		25,023	Mountainous, winter grazing.
Washington	551,191	137,840	689,031	Rough, mountainous, grazing, mineral.
Wayne	415,468	817,280	1,232,748	Do.
Weber	12,645		12,645	Arid, winter grazing.
Total	12,378,068	11,503,377	23,881,445	

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

WASHINGTON

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Spokane:				
Adams	9, 575		9, 575	Grazing, desert.
Asotin	8, 789		8, 789	Grazing, mountainous.
Benton	50, 544		50, 544	Arid, mountainous.
Chelan	30, 435		30, 435	Grazing, mountainous.
Clallam	1, 951	40	1, 991	Mountainous, rough.
Clark	680		680	Rough, hilly.
Columbia	577		577	Grazing.
Cowlitz	2, 172		2, 172	Rough, broken, timber.
Douglas	40, 721		40, 721	Rough, grazing.
Ferry	165, 896		165, 896	Timber, grazing, mineral, mountainous.
Franklin	14, 544		14, 544	Desert, grazing.
Garfield	1, 219		1, 219	Grazing, mountainous.
Grant	127, 463		127, 463	Semiarid, mountainous.
Jefferson	197		197	Rough.
King	1, 885	1, 280	3, 165	Rough, mountainous.
Kittitas	33, 877		33, 877	Semiarid, mountainous.
Klickitat	22, 434		22, 434	Grazing, rough, little timber.
Lewis	2, 009	80	2, 089	Rough, mountainous.
Lincoln	12, 920		12, 920	Arid, grazing.
Mason	676		676	Rough.
Okanogan	162, 580		162, 580	Grazing, mountainous, some timber.
Pacific	38		38	Rough.
Pend Oreille	41, 810		41, 810	Mountainous, mineral, some timber.
San Juan	2, 575		2, 575	Rough.
Skagit	2, 334		2, 334	Rough, mountainous.
Skamania	2, 160		2, 160	Do.
Snohomish	46		46	Rough.
Spokane	644		644	Rough, rocky.
Stevens	129, 283	11, 842	141, 125	Grazing, mineral, some timber.
Wahkiakum	278		278	Rough.
Walla Walla	4, 500		4, 500	Grazing, rough, little timber.
Whatcom	2, 865	960	3, 825	Mountainous, hilly.
Whitman	1, 401		1, 401	Rough, grazing.
Yakima	27, 304		27, 304	Arid, grazing, rough.
Total	906, 382	14, 202	920, 584	

WYOMING

Buffalo:				
Big Horn	911, 667	106, 443	1, 018, 110	Grazing, mountainous.
Campbell	267, 711		267, 711	Grazing, rough, farming.
Converse	1, 661		1, 661	Do.
Crook	80, 803	1, 730	82, 533	Grazing, rough, farming, timber.
Fremont	3, 321		3, 321	Do.
Hot Springs	101, 478		101, 478	Grazing, mountainous, agricultural.
Johnson	521, 107	4, 055	525, 162	Dry farming, rough, rolling.
Natrona	24, 539		24, 539	Grazing, rolling, agricultural.
Niobrara	6, 041		6, 041	Do.
Sheridan	64, 062	138, 240	202, 302	Grazing, mountainous, agricultural.
Washakie	653, 611	207, 742	861, 353	Grazing, mountainous.
Weston	86, 305		86, 305	Grazing, rolling, farming, timber.
Total	2, 722, 306	458, 210	3, 180, 516	
Cheyenne:				
Albany	442, 514		442, 514	Grazing, mountainous.
Big Horn	99, 287		99, 287	Grazing, mountainous, timber, agriculture.
Carbon	1, 683, 660		1, 683, 660	Mountainous, some timber.
Converse	193, 478		193, 478	Grazing, dry farming, mountainous.
Fremont	1, 628, 264	14, 140	1, 642, 404	Grazing, mountainous, arid, timber.
Goshen	19, 714		19, 714	Broken, grazing, dry farming.
Hot Springs	286, 008	10, 600	296, 608	Mineral, grazing, farming, timber.
Laramie	9, 860		9, 860	Broken, grazing, dry farming.
Natrona	1, 220, 651	7, 723	1, 228, 374	Grazing, dry farming, mountainous.
Niobrara	83, 165		83, 165	Do.
Park	336, 432		336, 432	Stone, grazing, farming, timber, mineral.
Platte	59, 435		59, 435	Broken, grazing, dry farming.

Statement showing the unappropriated and unreserved land, by district and county, on July 1, 1930—Continued

[Counties containing no vacant land are omitted]

WYOMING—Continued

Land district and county	Area in acres			Character
	Surveyed	Unsurveyed	Total	
Cheyenne—Conth.				
Sublette	54, 900		54, 900	Grazing, mountainous.
Sweetwater	460, 304		460, 304	Mountainous, grazing, alkaline plains.
Washakie	25, 619		25, 619	Broken, grazing, farming.
Total	6, 603, 291	32, 463	6, 635, 754	
Evanston:				
Lincoln	839, 250		839, 250	Grazing, mountainous.
Sublette	1, 156, 775		1, 156, 775	Do.
Sweetwater	3, 106, 815	253, 065	3, 359, 880	Grazing, alkaline.
Teton	5, 220		5, 220	Grazing, timber.
Uinta	432, 085		432, 085	Grazing, mountainous.
Fremont	319, 980		319, 980	Grazing, alkaline.
Total	5, 860, 125	253, 065	6, 113, 190	
State total	15, 185, 722	743, 738	15, 929, 460	

RECAPITULATION, BY STATES

	Area, in acres		
	Surveyed	Unsurveyed	Total
Arizona	8, 084, 880	7, 096, 000	15, 180, 880
Arkansas	190, 969		190, 969
California	11, 284, 395	5, 339, 093	16, 623, 488
Colorado	6, 825, 425	1, 202, 043	8, 027, 468
Florida	12, 245	6, 652	18, 897
Idaho	8, 765, 491	1, 852, 479	10, 617, 970
Minnesota	189, 845		189, 845
Montana	6, 510, 937	90, 740	6, 601, 677
Nebraska	22, 628		22, 628
Nevada	30, 064, 688	21, 389, 805	51, 454, 493
New Mexico	14, 316, 481	1, 347, 640	15, 664, 121
North Dakota	146, 505		146, 505
Oregon	12, 976, 725	92, 411	13, 069, 136
South Dakota	439, 880		439, 880
Utah	12, 378, 068	11, 503, 377	23, 881, 445
Washington	906, 382	14, 202	920, 584
Wyoming	15, 185, 722	743, 738	15, 929, 460
Grand total	128, 301, 266	50, 678, 180	178, 979, 446

UNPERFECTED ENTRIES ON JULY 1, 1930

Statement showing number and area of entries of record upon which "final proof" of compliance with the law is not due or has not yet been presented [1]

State and land district	Number of entries	Area, in acres
Arizona, Phoenix	4, 175	1, 345, 200
Arkansas, Little Rock	1, 198	94, 375
California:		
Los Angeles	3, 901	801, 892
Sacramento	3, 488	980, 695
Colorado:		
Denver	4, 482	1, 576, 860
Pueblo	1, 849	612, 187
Florida, Gainesville	339	24, 720
Idaho:		
Blackfoot	5, 917	1, 769, 218
Coeur d'Alene	284	247, 088
Minnesota, Cass Lake	577	49, 561
Montana:		
Billings	5, 129	1, 712, 994
Great Falls	3, 507	977, 420
Nebraska, Alliance	521	80, 744
Nevada, Carson City	1, 471	1, 193, 405
New Mexico:		
Las Cruces	3, 766	1, 796, 403
Santa Fe	5, 641	2, 021, 299
North Dakota, Bismarck	487	63, 105
Oregon:		
Lakeview	312	102, 240
Roseburg	1, 490	156, 010
The Dalles	1, 876	613, 142
South Dakota, Pierre	3, 055	861, 200
Utah, Salt Lake City	3, 209	1, 349, 531
Washington, Spokane	616	189, 250
Wyoming:		
Buffalo	5, 406	2, 247, 251
Cheyenne	2, 961	1, 419, 624
Evanston	585	248, 160
Total	66, 242	22, 533, 574

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[1] Such of these entries as may from time to time be canceled of record for failure to submit final proof or for failure to comply with the law will be open to entry by the first qualified applicant, if not withdrawn or reserved.

U. S. GOVERNMENT PRINTING OFFICE: 1930

46113

Office Copy

Circular No. 1231.

REGULATIONS PERTAINING TO THE WITHDRAWAL OF LANDS CONTAINING HOT SPRINGS OR SPRINGS THE WATERS OF WHICH POSSESS CURATIVE PROPERTIES.

Part 292
292.6-292.7
CFR 43

Still in effect 5/28/54
but
Amended by circ 1236, 1218
& 1661

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

August 16, 1930.

Registers,

U. S. Land Offices.

Chiefs of Field Divisions.

Gentlemen:

By Executive order of July 7, 1930, No. 5389, the following order of withdrawal was issued:

> "Under authority of the act of Congress approved June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912, (37 Stat. 497), it is hereby ordered that every smallest legal subdivision of the public land surveys which is vacant unappropriated unreserved public land and contains a hot spring, or a spring the waters of which possess curative properties; and all land within one-quarter of a mile of every such spring located on unsurveyed public land, exclusive of Alaska, be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for lease under the provisions of the act of March 3, 1925 (43 Stat. 1133), subject to valid existing rights.
>
> This order shall remain in full force and effect unless and until revoked by the President or by act of Congress."

The above order was designed to preserve for general public use and benefit the unreserved public lands, exclusive of Alaska, containing hot springs or springs the waters of which possess curative properties, in order that they might be leased under the provisions of the act of March 3, 1925 (43 Stat. 1133), and the regulations issued thereunder, Circular No. 1034, approved October 6, 1925 (51 L. D. 221).

An applicant to enter or select lands situated outside of a national forest in any State must show that the land is not within an area of one-quarter mile surrounding any hot spring or other spring having waters possessing curative properties, and that no such spring exists, if it be a fact, upon any legal subdivision of land sought to be appropriated, if surveyed, and if unsurveyed within one-quarter of a mile from the exterior boundaries of the land.

See Circ 1236

If there be any such spring upon or adjacent to the land as stated, the applicant must show the exact location and size thereof, together with an estimate of the quantity of water in gallons which it is capable of producing daily and any other information necessary to determine whether or not it is valuable or necessary within the meaning of said Executive order. Where such showing is made the application should not be allowed but should be transmitted to the General Land Office for consideration. The showing must be made in affidavit form duly corroborated.

Permission may be obtained to use or improve lands containing such springs, under the said act of March 3, 1925.

In case the attempted appropriation of lands is one the allowance of which is within the discretion of the Secretary of the Interior or the Commissioner of the General Land Office, the showing hereinbefore referred to must be furnished irrespective of the date of filing of the application, entry, or selection before favorable action is taken thereunder.

This circular shall not apply however to selections or filings made in pursuance of grants which have been determined to be "Grants in praesenti" and to have attached and become effective prior to July 7, 1930, or to valid existing rights, initiated prior to said date and thereafter maintained in accordance with the laws applicable thereto.

You will make proper notations on your records of this withdrawal, in order that it may be considered in connection with any applications filed.

Geological Survey designation lists, both enlarged and stock raising, will contain a paragraph stating,

> "This area contains no spring of the type intended to be withdrawn by Executive order of July 7, 1930, No. 5389, and therefore is unaffected by it."

Where orders of designation under the enlarged homestead or stock raising acts contain the above-quoted paragraph, it will not be necessary for entrymen to make the showing required by this circular.

Very respectfully,

C. C. MOORE,

Commissioner.

I concur:

GEORGE OTIS SMITH,

Director, Geological Survey.

Approved: August 16, 1930.

JOHN H. EDWARDS,

Assistant Secretary.

Corrected Copies

60254

Circular No. 1231.
(Revised)

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

January 27, 1932.

REGULATIONS PERTAINING TO THE WITHDRAWAL OF LANDS CONTAINING HOT SPRINGS OR SPRINGS THE WATERS OF WHICH POSSESS CURATIVE PROPERTIES

Registers,

U. S. Land Offices.

Chiefs of Field Divisions.

Gentlemen:

By Executive order of July 7, 1930, No. 5389, the following order of withdrawal was issued:

> "Under authority of the act of Congress approved June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497), it is hereby ordered that every smallest legal subdivision of the public land surveys which is vacant, unappropriated unreserved public land and contains a hot spring, or a spring the waters of which possess curative properties; and all land within one-quarter of a mile of every such spring located on unsurveyed public land, exclusive of Alaska, be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for lease under the provisions of the act of March 3, 1925 (43 Stat. 1133), subject to valid existing rights."
>
> This order shall remain in full force and effect unless and until revoked by the President or by act of Congress."

The above order was designed to preserve for general public use and benefit the unreserved public lands, exclusive of Alaska, containing hot springs or springs the waters of which possess curative properties, in order that they might be leased under the provisions of the act of March 3, 1925 (43 Stat. 1133), and the regulations issued thereunder, Circular No. 1034, approved October 6, 1925 (51 L. D. 221).

An applicant to enter or select lands situated outside of a national forest in any State must show that no hot spring or other spring having waters possessing curative properties exists, if it be a fact, upon any legal subdivision of land sought to be appropriated, if surveyed, and if unsurveyed, that no portion of the land applied for is within an area of one-quarter of a mile from such spring.

(over)

If there by any such spring upon or adjacent to the land as stated, the applicant must show the exact location and size thereof, together with an estim[illegible] of the quantity of water in gallons which it is capable of producing daily and any other information necessary to determine whether or not it is valuable or necessary within the meaning of said Executive order. Where such showing is made the application should not be allowed but should be transmitted to the General Land Office for consideration. The showing must be made in affidavit form duly corroborated.

Permission may be obtained to use or improve lands containing such springs under the said act of March 3, 1925.

In case the attempted appropriation of lands is one the allowance of which is within the discretion of the Secretary of the Interior or the Commissioner of the General Land Office, the showing hereinbefore referred to must be furnished irrespective of the date of filing of the application, entry, or selection before favorable action is taken thereunder.

This circular shall not apply however to selections or filings made in pursuance of grants which have been determined to be "Grants in Praesenti" and to have attached and become effective prior to July 7, 1930, or to valid existing rights, initiated prior to said date and thereafter maintained in accordance with the laws applicable thereto.

You will make proper notations on your records of this withdrawal, in order that it may be considered in connection with any applications filed.

Geological Survey designation lists, both enlarged and stock raising, wi[illegible] contain a paragraph stating:

> "This area contains no spring of the type intended to be withdrawn by Executive order of July 7, 1930, No. 5389, and therefore is unaffected by it."

Where orders of designation under the enlarged homestead or stock raising acts contain the above-quoted paragraph, it will not be necessary for entrymen to make the showing required by this circular.

Also in cases of applications or entries for lands within Federal reclamation projects, where a report is made by the Bureau of Reclamation that the lands contain no spring of the type intended to be withdrawn by Executive order of July 7, 1930, No. 5389, it will not be necessary for the claimant to make the showing required by this circular.

Very respectfully,

C. C. MOORE,
Commissioner.

I concur:

(SGD.) W. C. MENDENHALL,
Director, Geological Survey.

Approved: January 27, 1932.

(SGD.) JOHN H. EDWARDS,
Assistant Secretary.

hw
Part 292.
CFR 43

Review Stock

51026 Office Copy

Circular No. 1236.

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See Circ. 1518 + 1661

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

February 11, 1931.

1381361 "K" MKH

: Amending regulations pertaining to the withdrawal of lands containing hot springs or springs the waters of which possess curative properties.

Registers,
U. S. Land Offices
and Chiefs of Field Divisions.

Sirs:

By Executive order of July 7, 1930, No. 5389, every smallest legal subdivision of the public land surveys which is vacant unappropriated unreserved public land and contains a hot spring or a spring, the waters of which possess curative properties, and all land within one-quarter of a mile of every such spring located on unsurveyed public land, exclusive of Alaska, were withdrawn from settlement, location, sale, or entry, and reserved for lease under the provisions of the act of March 3, 1925 (43 Stat. 1133), subject to valid existing rights.

The regulations issued in pursuance of said Executive order contained in Circular No. 1231, approved August 16, 1930, were amended by departmental order of February 3, 1931, by substituting the following paragraph for paragraph 3 of the original regulations:

> "An applicant to enter or select lands situated outside of a national forest in any State must show that no hot spring or other spring having waters possessing curative properties exists, if it be a fact, upon any legal subdivision of land sought to be appropriated, if surveyed, and if unsurveyed, that no portion of the land applied for is within an area of one-quarter of a mile from such spring."

(over)

You will make proper notations of this amendment in order that it may be considered in connection with Circular No. 1231 and with applications filed.

Mimeograph copies hereof will be furnished you when available.

Very respectfully,

THOS. C. HAVELL,

Acting Commissioner.

This is H. R. introduced by Mr. Leavitt the law form.

EIVED
U.S. LAND OFFICE
BILLINGS, MONTANA
Date MAR 5 1931
Hour

[PUBLIC—NO. 649—71ST CONGRESS]

[H. R. 12871]

An Act Providing for the sale of isolated tracts in the former Crow Indian Reservation, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section 2455 of the Revised Statutes of the United States, as amended by the Act of March 9, 1928 (45 Stat. L. 253; U. S. C., 2d supp., title 43, ch. 28, sec. 1171), be, and the same are hereby, extended and made applicable to lands within the portion of the Crow Indian Reservation, Montana, ceded by the Act of March 3, 1891 (26 Stat. L. 1040).

Approved, February 14, 1931.

1236½

Cir. 1236½

RIGHTS OF WAY OVER PUBLIC LANDS AND RESERVATIONS FOR CANALS, DITCHES, AND RESERVOIRS AND USE OF RIGHTS OF WAY FOR VARIOUS PURPOSES

Regulations

[Circular No. 1237][1]

Department of the Interior,
General Land Office,
Washington, D. C., February 21, 1931.

CANALS, DITCHES, AND RESERVOIRS

1. *General statement.*—Sections 18, 19, 20, and 21 of the act of Congress approved March 3, 1891 (26 Stat. 1095), entitled "An act to repeal timber-culture laws, and for other purposes," grant the right of way through the public lands and reservations of the United States for the use of canals, ditches, or reservoirs heretofore or hereafter constructed by corporations, individuals, or associations of individuals. If the right of way is upon a reservation not within the jurisdiction of the Interior Department, the application must be filed in accordance with these regulations, and will be submitted to the department having jurisdiction. A map and field notes of the portion within any reservation, except in the case of a national forest, must be submitted in addition to the duplicates required herein. All maps and field notes must conform to the provisions of this circular.

The sections above noted read as follows:

> Sec. 18. That the right of way through the public lands and reservations of the United States is hereby granted to any canal or ditch company formed for the purpose of irrigation, and duly organized under the laws of any State or Territory, which shall have filed or may hereafter file with the Secretary of the Interior a copy of its articles of incorporation and due proofs of its organization under the same to the extent of the ground occupied by the water of the reservoir and of the canal and its laterals, and fifty feet on each side of the marginal limits thereof; also the right to take from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch: *Provided*, That no such right of way shall be so located as to interfere with the proper occupation by the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation, and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories.
>
> Sec. 19. That any canal or ditch company desiring to secure the benefits of this act shall, within twelve months after the location of ten miles of its canal,

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[1] This is a revision of the regulations of June 6, 1908 (36 L. D. 567), with the amended regulations which have been approved in the interim substituted for those they have superseded.—Ed.

if the same be upon surveyed lands, and if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a map of its canal or ditch and reservoir; and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such rights of way shall pass shall be disposed of subject to such right of way. Whenever any person or corporation in the construction of any canal, ditch, or reservoir injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 20. That the provisions of this act shall apply to all canals, ditches, or reservoirs heretofore or hereafter constructed, whether constructed by corporations, individuals, or association of individuals, on the filing of the certificates and maps herein provided for. If such ditch, canal, or reservoir has been or shall be constructed by an individual or association of individuals, it shall be sufficient for such individual or association of individuals to file with the Secretary of the Interior and with the register of the land office where said land is located a map of the line of such canal, ditch, or reservoir, as in case of a corporation, with the name of the individual owner or owners thereof, together with the articles of association, if any there be. Plats heretofore filed shall have the benefits of this act from the date of their filing, as though filed under it: *Provided*, That if any section of said canal or ditch shall not be completed within five years after the location of said section the rights herein granted shall be forfeited as to any uncompleted section of said canal, ditch, or reservoir, to the extent that the same is not completed at the date of the forfeiture.

SEC. 21. That nothing in this act shall authorize such canal or ditch company to occupy such right of way except for the purpose of said canal or ditch, and then only so far as may be necessary for the construction, maintenance, and care of said canal or ditch.

2. *Material on adajcent lands.*—The word "adjacent," as used in section 18 of the act, in connection with the right to take material for construction from the public lands, must be construed according to the conditions of each case (28 L. D. 439). The right extends only to construction, and no public timber or material may be taken or used for repair or improvements (14 L. D. 566). These decisions were rendered under the railroad right-of-way act, and are applied to this act since the words are the same in both.

3. *Other uses*—(*a*) *Public purposes, etc., subsidiary to main purpose of irrigation.*—Section 2 of the act approved May 11, 1898 (30 Stat. 404), entitled "An act to amend an act to permit the use of the right of way through public lands for tramroads, canals, and reservoirs, and for other purposes," authorizes the use of rights of way granted under the act of 1891 for purposes subsidiary to the main purpose of irrigation. The language of said section is as follows:

SEC. 2. That rights of way for ditches, canals, or reservoirs heretofore or hereafter approved under the provisions of sections eighteen, nineteen, twenty, and twenty-one of the act entitled "An act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one,

may be used for purposes of a public nature; and said rights of way may be used for purposes of water transportation, for domestic purposes, or for the development of power, as subsidiary to the main purpose of irrigation.

(*b*) *Drainage.*—By an act approved March 4, 1917 (39 Stat. 1197), section 18 of the said act of March 3, 1891, was amended so as to provide for drainage as well as irrigation, and section 2 of the said act of May 11, 1898, was amended so as to make the other uses authorized by the granting act of March 3, 1891, "subsidiary to the main purpose of irrigation or drainage."

(*c*)[2] *Ditch riders' stations.*—An act entitled: "An act to amend acts to permit the use of the right of way through the public lands for tramroads, canals, and reservoirs, and for other purposes," approved March 1, 1921 (41 Stat. 1194), reads:

> That in addition to the rights of way granted by sections 18, 19, 20, and 21 of the act of Congress entitled "An act to repeal timber-culture laws, and for other purposes," approved March 3, 1891 (Twenty-sixth Statutes, p. 1095), as amended by the act of Congress entitled "An act to amend the irrigation act of March 3, 1891 (Twenty-sixth Statutes, p. 1095, sec. 18), and to amend section 2 of the act of May 11, 1898 (Thirtieth Statutes, p. 404)," approved March 4, 1917 (Thirty-ninth Statutes, p. 1197), and, subject to the conditions and restrictions therein contained, the Secretary of the Interior is authorized to grant permits or easements for not to exceed five acres of ground adjoining the right of way at each of the locations, to be determined by the Secretary of the Interior, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the care and management of the works provided for by said acts: *Provided*, That this act shall not apply to lands within national forests.

Applicants for rights of way under this amendment will be governed by the regulations set forth in this circular, in so far as applicable, appropriate additions being made to the forms on the maps therein prescribed so as to include this amendment.

(*d*)[3] *Additional right of way.*—An act to amend section 18 of the irrigation act of March 3, 1891, as amended by the acts of March 4, 1917, and March 1, 1921, *supra*, approved May 28, 1926 (44 Stat. 668), reads:

> SEC. 18. That the right of way through the public lands and reservations of the United States is hereby granted to any canal ditch company, irrigation or drainage district formed for the purposes of irrigation or drainage, and duly organized under the laws of any State or Territory, and which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation or, if not a private corporation, a copy of the law under which the same is formed and due proof of its organization under the same, to the extent of the ground occupied by the water of any reservoir and of any canals and laterals and fifty feet on each side of the marginal limits thereof, and, upon presentation of satisfactory showing by the ap-

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[2] See Circular No. 757, approved May 16, 1921 (48 L. D. 113).—Ed.

[3] See Circular No. 1076, approved July 8, 1926 (51 L. D. 485).—Ed.

plicant, such additional right of way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals; also the right to take from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch: *Provided*, That no such right of way shall be so located as to interfere with the proper occupation of the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation; and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories.

It will be noted that this act authorizes right of way, if needs be, additional to the 50 feet granted by the act of March 3, 1891 (26 Stat. 1095). To obtain such additional right of way, explanatory showing must accompany the application. This should consist of an affidavit by the applicant's engineer or surveyor setting forth succinctly the extent of the additional right of way required and the necessity therefor. The additional right of way should also be shown graphically by lateral limit lines on the map filed in connection with the application. If additional right of way is wanted only for portions or sections of the reservoirs, canals, ditches, or laterals, the termini thereof should be fixed by engineer's survey stations in addition to the lateral limit lines.

4. *Control of water.*—While these acts grant rights of way over the public lands necessary to the maintenance and use of ditches, canals, and reservoirs, the control of the flow and use of the water is, so far as these acts are concerned, vested in the States or Territories, the jurisdiction of the Department of the Interior being limited to the approval of maps carrying the right of way over the public lands. If the right of way applied for under these acts in any wise involves the appropriation of natural sources of water supply, the damming of rivers, or the use of lakes, the maps should be accompanied by proof that the plans and purposes of the projectors have been regularly submitted and approved in accordance with the local laws or customs governing the use of water in the State or Territory in which such right of way is located. No general rule can be adopted in regard to this matter. Each case must rest upon the showing filed.

5. *Nature of grant.*—The right granted is not in the nature of a grant of lands, but is a base or qualified fee, on an implied condition of reverter in the event the grantee ceases to retain or use the land for any of the purposes authorized by the granting act. All persons settling on a tract of public land, to part of which right of way has attached for a canal, ditch, or reservoir, take the land subject to such right of way, and at the total area of the subdivision entered,

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there being no authority to make deduction in such cases. If a settler has a valid claim to land existing at the date of the filing of the map of definite location, his right is superior, and he is entitled to such reasonable measure of damages for right of way as may be determined upon by agreement or in the courts, the question being one that does not fall within the jurisdiction of this department. Section 21 of the act of March 3, 1891, provides that the grant of a right of way for a canal, ditch, or reservoir does not necessarily carry with it a right to use of land 50 feet on each side, but only such land may be used as is necessary for construction, maintenance, and care of the canal, ditch, or reservoir. The width is not specified.

6. *Right of way through national forests.*—Whenever a right of way is through a national forest, the applicant must enter into such stipulation and execute such bond as the Forest Service may require for the protection of such national forest. No construction will be allowed in a national forest until an application for right of way has been regularly filed and approved by the Secretary of the Interior, or unless permission for such construction work has been specifically given.

7. *Right of way through proposed national forest.*—If the right of way is through land within a proposed national forest, the applicant must file the following stipulations under seal:

(*a*) That the proposed right of way is not so located as to interfere with the proper occupation and use of the reservation by the Government.

(*b*) That the applicant will cut no timber from the reserve outside the right of way, and will remove no timber from the land within the right of way except such as is rendered necessary for the proper use and enjoyment of the privilege for which application is made.

(*c*) That he will remove from the reservation, or destroy, under such safeguards as may be deemed necessary by the General Land Office, all standing, fallen, and dead timber, as well as all tops, lops, brush, and refuse cuttings on the right of way, for such distance on each side of the central line as may be required by the General Land Office to protect the forest from fire.

(*d*) That the applicant will furnish free of charge such assistance in men and material for fighting fires as may be spared without serious injury to the applicant's business.

(*e*) That should any portion of said right of way be included in a national forest, the applicant will build new roads, trails, and crossings, as required by the Forest Service, in case any roads or trails are destroyed or intercepted by construction work or flooding upon said right of way.

The applicant will also be required to give bond to be approved by the Commissioner of the General Land Office, stipulating that the United States will be compensated "for any and all damage to the public lands, timber, natural curiosities, or other public property on such reservation, or upon the lands of the United States, by reason of such use and occupation of the reserve, regardless of the cause or circumstances under which such damage may occur." A bond furnished by any surety company that has complied with the provisions of the act of August 13, 1894 (28 Stat. 279), will be accepted. The amount of the bond can not be fixed until the application has been submitted to the General Land Office, when a form of bond will be furnished and the amount thereof fixed.

8. *Right of way partly on unsurveyed land.*—Canals, ditches, or reservoirs lying partly upon unsurveyed land can be approved if the application and accompanying maps and papers conform to these regulations, but the approval will only relate to that portion traversing the surveyed lands. (For right of way wholly on unsurveyed land, see sec. 18.)

9. *Application by corporation.*—An incorporated company desiring to obtain the benefits of the law must file the papers and maps specified below with the register of the land district in which the canal, ditch, or reservoir is to be located. These papers and maps will be forwarded to the General Land Office, and after examination, they will be submitted to the Secretary of the Interior with recommendation as to their approval:

(*a*)[4] A copy of its articles of incorporation, duly certified to by the proper officers of the company under its corporate seal, or by the secretary of the State or Territory where organized; also an uncertified copy of the articles of incorporation.

(*b*) A copy of the State or Territorial law under which the company was organized (if it was organized under State or Territorial law), with certificate of the governor or secretary of the State or Territory, under seal, that the same was the law at the date of incorporation. (See par. *k* of this section.)

(*c*) If the State or Territorial law directs that the articles of incorporation or other papers connected with the organization be filed with any State or Territorial officer, there must be submitted the certificate of such officer that the same have been filed according to law, and giving the date of the filing thereof.

(*d*) When a company is operating in a State or Territory other than that in which it is incorporated, it must submit the certificate of the proper officer of the State or Territory that it has complied

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[4] See instructions of July 10, 1912 (41 L. D. 101), promulgated as part of Circular No. 194, November 16, 1912, unpublished.—Ed.

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with the laws of that State or Territory governing foreign corporations to the extent required to entitle the company to operate in such State or Territory.

No forms are prescribed for the above portion of the "due proofs" required, as each case must be governed to some extent by the laws of the State or Territory.

(*e*) The official statement, by the proper officer, under the seal of the company, that the organization has been completed, that the company is fully authorized to proceed with construction according to the existing law of the State or Territory in which it is incorporated, and that the copy of the articles filed is true and correct. (See Form 1, p. 304.)

(*f*)[5] A true list, in duplicate, signed by the president, under the seal of the company, showing the names and designations of its officers at the date of the filing of the proofs.

(*g*) A copy of the company's title or right to appropriate the water needed for its canals, ditches, and reservoirs, certified as required by the State or Territorial laws. If the miner's inch is the unit used in such title, its equivalent in cubic feet per second must be stated. If the right to appropriate the water has not been adjudicated under the local laws, a certified copy of the notice of appropriation will be sufficient. If the notice of appropriation is accompanied by a map of the canal or reservoir it will not be necessary to furnish a copy of the map where the notice describes the location sufficiently to identify it with the canal or reservoir for which the right-of-way application is made. If the water-right claim has been transferred a number of times it is not necessary to furnish a copy of each instrument of transfer; an abstract of title will be accepted.

(*h*) A copy of the State or Territorial laws governing water rights and irrigation, with the certificate of the governor or secretary of the State or Territory that the same is the existing law. (See par. *k* of this section.)

(*i*) A separate statement as follows: The amount of water flowing in the stream supplying the canal, ditch, or reservoir, at the point of diversion or damming, during the preceding year or years. For this purpose it will be necessary to give the maximum, minimum, and average flow in cubic feet per second for each month during the period for which records are available. In cases of reservoirs of 5,000 acre-feet capacity or more, or of ditches of 100 cubic feet per second capacity or more, the amount of water, in acre-feet, available for storage or diversion, and the amount of water

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[5] See instructions of July 10, 1912 (41 L. D. 101), promulgated as part of Circular No. 194, November 16, 1912, unpublished.—Ed.

which it is proposed to divert annually from the stream or streams affected, with the period during which the water is to be diverted. The length, cross-section, grade, and capacity of the ditches to be constructed and the characteristics of each ditch as affecting the flow of water. The surveyor or engineer of the applicant must certify to the above, and must certify that all available records (specifying them), official and otherwise, have been consulted. If there is no well-defined flow which can be measured, or if there is no record of the flow, the area of the watershed, average annual rainfall, and estimated run-off at the point of diversion or damming must be given.

(*j*) Maps, field notes, and other papers, as hereinafter required.

(*k*) If certified copies of the existing laws regarding corporations and irrigation, and of new laws as passed from time to time, be forwarded to the General Land Office by the Governor or secretary of the State or Territory, the applicant may file, in lieu of the requirements of paragraphs *b* and *h* of this section, a certificate of the governor or secretary of state, under seal, that no change has been made since a given date, not later than that of the laws last forwarded.

(*l*)[6] A separate statement, describing as near as may reasonably be done, by legal subdivisions, if practicable, the land to be irrigated by the proposed project: the approximate acreage and general condition and character of the lands: their ownership generally, and whether public or private: such negotiations or arrangements as have been had between the applicant and the owners or occupants of the lands.

10. *Application by individuals.*—Individuals or associations of individuals making applications for right of way are required to file the information called for in paragraphs *g*, *h* or *k*, *i*, *j*, and *l* of the preceding section. Associations of individuals must, in addition, file their articles of association: if there be none, the fact must be stated over the signature of each member of the association.

11. *Field notes.*—Field notes of the surveys must be filed in duplicate, separate from the map, and in such form that they may be folded for filing. Complete field notes should not be placed on the map, but the following data should be shown thereon: (*a*) The station numbers where deflections or changes of numbering occur; (*b*) station numbers with distances to corners at points where the lines of the public surveys are crossed, and (*c*) the lines of reference of initial and terminal points, with their courses and distances. Typewritten field notes with clear carbon copies are preferred, as they expedite the examination of applications. The field notes should

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[6] Added by instructions of October 8, 1912, unpublished, promulgated as a part of Circular No. 194, November 16, 1912, unpublished.—Ed.

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contain, in addition to the ordinary records of surveys, the data called for in this and in the following sections. They should state which line of the canal was run—whether middle or a specified side line. The stations or courses should be numbered in the field notes and on the map. The record should be so complete that from it the surveys could be accurately retraced by a competent surveyor with proper instruments. The field notes should show whether the lines were run on the true or the magnetic bearings, and if run on magnetic bearings the declination of the needle and date of determination must be stated. The kind and size of the instrument used in running the lines and its minimum reading on the horizontal circle should be noted. The line of survey should be that of the actual location of the proposed ditch and, as exactly as possible, the water line of the proposed reservoir. The method of running the grade lines of canals and the water lines of reservoirs must be described.

12. *Maps.*—The maps filed must be drawn on tracing linen in duplicate, and must be strictly conformable to the field notes of the survey. They must be filed in the land office for the district in which the right of way is located; but if the right of way is located in more than one district, duplicate maps and field notes need be filed in but one district and single sets in the others. Other canals, ditches, laterals, or reservoirs with which connections are made must be shown, but distinguished from those for which right of way is desired by ink of a different color.

The scale of the map should be 2,000 feet to the inch in the case of canals or ditches and 1,000 feet to the inch in the case of reservoirs. The scale may, however, be 1,000 feet to the inch in the case of canals or ditches and 500 feet to the inch in the case of reservoirs when such a scale is absolutely necessary to properly show the proposed works.

All subdivisions of the public surveys represented on the map should have their entire boundaries drawn, and on all lands affected by the right of way the smallest legal subdivisions (40-acre tracts and lots) must be shown. The section, township, and range must be clearly marked on the map.

The map must bear a statement of the width of each canal, ditch, or lateral at high-water line. If not of uniform width the limits of the deviations must be clearly defined on the map. The field notes should record the changes in such a manner as to admit the exact location on the ground. In the case of a pipe line the diameter of the pipe should be stated. The map must show the source of water supply.

In applications for right of way for a reservoir the capacity of the reservoir must be stated on the map in acre-feet (i. e., the number of acres that will be covered to a depth of 1 foot by the water that the

Circular 1237a — Supersed by 1237b

1237b superseded by 1825

Regulations Governing Rights of Way for Canals, Ditches, Reservoirs, Water Pipe Lines, Telephone and Telegraph Lines, Tramroads, Roads and Highways, Oil and Gas Pipe Lines, Etc.

UNITED STATES DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, May 23, 1938.

GENERAL REGULATIONS APPLICABLE TO ALL RIGHT-OF-WAY APPLICATIONS MADE UNDER THE REGULATIONS CONTAINED IN THIS CIRCULAR

1. *Application.*—No special form is required, but it should be filed at the land office for the district in which the land is located, should state the act invoked and the primary purpose for which the project is to be used. If there is no local land office, the application should be filed with the Commissioner of the General Land Office, Washington, D. C.

2. *Showing required of corporations.*—Application by a private corporation must be accompanied by a copy of its charter or articles of incorporation, duly certified to by the proper State official of the State where the corporation was organized; also an uncertified copy.

A corporation other than a private corporation should file a copy of the law under which it was formed and due proof of organization under the same.

When the project is in a State other than that in which the corporation was incorporated, it must submit a certificate of the Secretary of State or other proper official of the State in which the project is located, showing compliance with the laws relating to foreign corporations.

3. *Showing required of individuals or association of individuals.*—Application by an individual under any of the acts, except the act of March 3, 1891, and the acts amendatory or supplemental thereto, must be accompanied by affidavit of citizenship if the applicant is native born, or if a naturalized citizen, by proof of naturalization. Application by an association must be accompanied by a certified copy of the articles of association, if any; if there be none, the fact must be stated over the signature of each member of the association. Each member must furnish evidence of citizenship where it would be required if he were applying individually.

4. *Evidence which must accompany application.*—Each application must be accompanied by the following data:

(*a*) A map prepared on tracing linen, in duplicate, showing the survey of the right-of-way or site, properly located with respect to the public-land surveys so that said right-of-way or site may be accurately located on the ground by any competent engineer or land surveyor. The map should comply with the following requirements:

The scale should be 2,000 feet to the inch for canals, ditches, pipe lines, transmission lines, etc., and 1,000 feet to the inch for reservoirs, except where a larger scale is required to properly represent the details of the proposed developments, in which case the scales should be 1,000 feet to the inch and 500 feet to the inch, respectively.

Courses and distances of the center line of the right-of-way or traverse line of the reservoir should be given; the courses referred to the true meridian either by deflection from a line of known bearing or by independent observation, and the distances in feet and decimals thereof. Station numbers with plus distances at deflection points on the traverse line should be shown.

The initial and terminal points of the survey should be accurately connected by course and distance to the nearest corner of the public-land surveys, unless that corner is more than 6 miles distant, in which case the connection will be made to some prominent natural object or permanent monument, which can be readily recognized and recovered. The station number and plus distance to the point of intersection with a line of the public-land surveys should be ascertained and noted, together with the course and distance along the section line to the nearest existing corner, at a sufficient number of points throughout the township to permit accurate platting of the relative position of the right-of-way to the public-land survey.

All subdivisions of the public-land surveys within the limits of the survey should be shown in their entirety, based upon the official subsisting plats with the subdivisions, section, township, and range clearly marked.

The width of the canal, ditch, or lateral at highwater line should be given and if not of uniform width, the location and amount of the change must be definitely shown. In the case of a pipe line, the diameter should be given. For reservoirs, the capacity in acre-feet, the area within the highwater line, the source of the water supply, and the location and height of the dam must be shown.

Each copy of the map should bear upon its face an affidavit of the engineer who makes the survey and the certificate of the applicant. See forms 1 and 2 on page 17 which should be modified so as to be be appropriate to the act invoked and the nature of the project.

(*b*) Evidence of water right, if the project involves the storage, diversion, or conveyance of water. Control and jurisdiction over the appropriation of water is vested in the State authorities. The applicant, therefore, must file evidence, obtained from the proper State official, that he has the right to appropriate the water to be stored, diverted, or conveyed.

5. *Oregon and California Railroad and Coos Bay Wagon Road lands* (*Oregon*).—All applications for rights-of-way for the construction and operation of any project over Oregon and California Railroad lands, title to which was revested in the United States by the act of June 9, 1916 (39 Stat. 218), and reconveyed Coos Bay Wagon Road lands, act of February 26, 1919 (40 Stat. 1179), must be accompanied by a stipulation executed by the applicant, agreeing to pay to the United States, by certified check drawn in favor of the Commissioner of the General Land Office, within 30 days from receipt of written notice to do so from the District Cadastral Engineer, such sum of money as may be determined by him to be fair

compensation for the Government timber cut, removed, or destroyed in the construction and operation of the project. Such applications should also contain an affirmative showing that favorable action thereon will not adversely affect or impair watershed protection, stream-flow regulation, and other conservation features enumerated in the act of August 28, 1937 (50 Stat. 874), amending the acts of June 9, 1916, and February 26, 1919, *supra.*

6. *Proposed or existing national forest.*—Whenever a right-of-way is through or in a national forest, or any area which the Secretary of Agriculture has recommended for inclusion within a national forest, the applicant must enter into such stipulations and execute such bond as the Forest Service may require for the protection of such existing or proposed national forest. No construction will be allowed in an existing or proposed national forest until an application for right-of-way has been regularly filed and approved by the Secretary of the Interior, or unless permission for such construction work has been specifically given.

7. *National parks.*—The act of March 3, 1921 (41 Stat. 1353), provides, inter alia:

> That hereafter no permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power within the limits as now constituted of any national park or national monument, shall be granted or made without specific authority of Congress, etc.

8. *Action on application.*—When an application is filed, the register will place on the papers and accompanying maps, the serial number, the name of the office, and the date of filing. Notations will be made on the local office records opposite each unpatented tract affected by the right-of-way or site, giving serial number, date of filing, and the name of the applicant. The register will certify on each map, over his written signature, that unpatented land is affected. If no unpatented land is affected, the register will return the map and duplicate to the applicant with notice of that fact.

(*a*) The General Land Office shall request the Geological Survey and the Bureau of Reclamation to make reports in connection with all right-of-way applications involving the diversion, storage, or conveyance of water and shall request the Geological Survey for reports in connection with all right-of-way applications under the oil and gas leasing act. Requests by the General Land Office for reports from all Bureaus or Departments shall be made in connection with all right-of-way applications affecting lands in withdrawals or reservations in which the Bureau or Department might be interested. Upon the approval of a map by the Secretary of the Interior, the duplicate copy will be sent to the register who will mark upon the township plats the line of the right-of-way or site as shown on the approved map. The register will also note the approval in ink on the tract books, opposite each legal subdivision affected, with a reference to the act mentioned on the map.

9. *Proof of construction.*—A period of 5 years from the date of the approval of a map is usually allowed for construction. Upon completion of construction, proof thereof should be filed in the local office, consisting of an affidavit of the person in charge of the construction or who has checked over the construction, and the certificate

of the grantee. Forms 3 and 4 for the affidavit and certificate are shown on page 17. The forms should be modified so as to be appropriate to the act and to the nature of the project. If, in constructing, there has been a substantial deviation from the location shown on the approved map, the party in interest must file a duly executed relinquishment of the unused portion of the right-of-way or site, accompanied by a map of amended location of the right-of-way or site of the project as actually constructed. The map of amended location must be prepared in accordance with regulation 4. The relinquishment may be prepared so as to become effective upon departmental approval of the map of amended location.

Upon expiration of the 5-year period allowed for construction, if there has been no construction, grants of rights-of-way or sites are subject to cancellation through court proceedings. A permit may be revoked by the Secretary for nonconstruction or abandonment.

RIGHTS OF WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR CANALS, DITCHES, AND RESERVOIRS

10. *Statutory authority.*—Section 18 of the act of March 3, 1891 (26 Stat. 1095), as amended by the acts of March 4, 1917 (39 Stat. 1197), and May 28, 1926 (44 Stat. 668), 43 U. S. C. 946, authorizes the Secretary of the Interior to grant rights-of-way for irrigation and drainage purposes to the extent of the ground occupied by the water of any reservoirs and any canals and laterals and 50 feet on each side of the marginal limits thereof and such additional right-of-way as may be deemed necessary for the proper operation and maintenance of said reservoirs, canals, and laterals.

Section 19 of the act of March 3, 1891 (43 U. S. C. 947), provides for the filing of maps by applicants desiring to secure the benefits of said act; that upon the approval thereof by the Secretary of the Interior, the same shall be noted upon the records and thereafter all lands affected by such right-of-way shall be disposed of subject to such right-of-way.

Section 20 of the act of March 3, 1891 (43 U. S. C. 948), provides that this act shall apply to all canals, ditches, or reservoirs heretofore or hereafter constructed, whether by corporations, individuals, or association of individuals, on the filing of the certificates and maps as therein provided; that if any section of the project is not completed within 5 years after location, the right-of-way granted shall be forfeited as to the uncompleted canal, ditch, or reservoir, to the extent that the same is not completed at the date of forfeiture.

Section 21 of the act of March 3, 1891 (43 U. S. C. 949), provides that nothing in this act shall authorize the occupancy of such right-of-way except for the purpose for which the grant is made, and then only so far as may be necessary for the construction, maintenance, and care of the project.

11. *Statute construed.*—The act of March 3, 1891, as amended, is applicable to rights-of-way for pipe lines, flumes, or other conduits, although they are not specifically mentioned in the act, if water is conveyed primarily for irrigation or drainage purposes.

Material on adjacent lands: The word "adjacent," as used in section 18 of the act, in connection with the right to take material for construction from the public lands, must be construed according to the conditions of each case (28 L. D. 439). The right extends only to construction, and no public timber or material may be taken or used for repair or improvements (14 L. D. 566). These decisions were rendered under the railroad right-of-way act and are applied to this act since the words are the same in both.

12. *Use subsidiary to main purpose of irrigation.*—Section 2 of the act of May 11, 1898 (30 Stat. 404), authorizes the use of rights-of-way granted under the act of March 3, 1891, for purposes subsidiary to the main purpose of irrigation.

13. *Caretaker's building sites.*—The act of March 1, 1921 (41 Stat. 1194), authorizes the Secretary of the Interior, except as to lands within national forests, to grant permits or easements for not to exceed 5 acres of ground adjoining the right-of-way at each of the locations, to be determined by the Secretary of the Interior, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the care and management of the works provided for by the act of March 3, 1891, as amended.

14. *Showing required for additional right-of-way.*—The act of May 28, 1926 (44 Stat. 668), amended section 18 of the act of March 3, 1891, so as to authorize, if needed, right-of-way additional to the 50 feet allowed by the section for operation and maintenance of reservoirs, etc. To obtain such additional right-of-way, explanatory showing must accompany the application. This should consist of an affidavit by the applicant's engineer or surveyor setting forth succinctly the extent of the additional right-of-way required and the necessity therefor. The additional right-of-way should also be shown graphically by lateral limit lines on the map filed in connection with the application. If additional right-of-way is wanted only for portions or sections of the reservoirs, canals, ditches, or laterals, the termini thereof should be fixed by engineer's survey stations in addition to the lateral limit lines.

15. *Nature of grant.*—Grants made under the act of March 3, 1891, are base fees with possibility of reverter to the Government in the event the grantee or successor ceases to use or retain the lands for the purposes for which they were granted. All persons settling on a tract of public land, to part of which right-of-way has attached for a canal, ditch, or reservoir, etc., take the land subject to such right-of-way, and at the total area of the subdivision entered, there being no authority to make deductions in such cases. If a settler has a valid claim to land, existing at the date of filing of the map of definite location, his right is superior, and he is entitled to such reasonable measure of damages for right-of-way as may be determined by agreement or by the courts, the question being one that does not fall within the jurisdiction of this Department.

16. *Unsurveyed land.*—Maps, filed under the said act, as amended, showing canals, ditches, reservoirs, etc., lying partly upon unsurveyed land can be approved if the application and accompanying maps conform to these regulations, but the approval will only relate to that portion of the right-of-way traversing the surveyed land.

(*a*) Maps showing canals, ditches, reservoirs, etc., lying wholly on unsurveyed lands may be received and placed on file in the General Land Office and the local land office of the district in which the land is located, for general information. The date of filing will be noted thereon; but the maps will not be submitted to nor approved by the Secretary of the Interior, as the act makes no provision for the approval of any but maps showing locations on surveyed lands. The filing of such maps will not dispense with the filing of maps after the survey of the lands and within the time specified in the act, and if the maps are regular in all respects they will receive the Secretary's approval.

17. *Segregated reservoir sites.*—The act of February 26, 1897 (29 Stat. 599), permits the approval of applications under the act of March 3, 1891, for rights-of-way upon reservoir sites reserved under authority of the act of October 2, 1888 (25 Stat. 505, 526), and August 30, 1890 (26 Stat. 371, 391).

RIGHTS-OF-WAY OVER PUBLIC LANDS FOR RESERVOIRS FOR WATERING LIVESTOCK

18. *Statutory authority.*—By the act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 952–953), it is provided that any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock may construct reservoirs upon unoccupied public lands of the United States, not mineral or otherwise reserved, for the purpose of furnishing water to such livestock, and shall have control of such reservoir, under regulations prescribed by the Secretary of the Interior, and the lands upon which the same is constructed, not exceeding 160 acres, so long as such reservoir is maintained and water kept therein for such purposes.

19. *Declaratory statement.*—Any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock, desiring to construct a reservoir under the authority of this act upon unappropriated public lands of the United States, not mineral or otherwise reserved except by Executive Order No. 6910 of November 26, 1934, and amendments thereto, and Executive Order No. 6964 of February 5, 1935, as amended, or within a grazing district established under the act of June 28, 1934 (48 Stat. 1269), may file a petition, in duplicate, for the classification of the land involved, together with a declaratory statement, in the district land office for the district in which the land is located in accordance with the instructions contained in Circular No. 1353, approved June 29, 1937.

20. *Application by corporation.*—When the applicant is a corporation there should be filed a copy of its articles of incorporation and proofs of its organization, as required in regulations 2 and 4 (*b*) of these regulations. If these papers are filed with the first declaratory statement made by the company, a reference thereto by its number will be sufficient in any subsequent application by the company.

The declaratory statement must be made under oath and should be drawn in accordance with form 7 (p. 19), and must contain the following:

(*a*) The post office address of the applicant; the name of the county in which the reservoir is to be or has been constructed; the description by the smallest legal subdivisions (40-acre tracts or lots) of the land sought to be reserved which under no circumstances must exceed 160 acres; certificate that the land is not occupied or otherwise claimed; certificate that to the best of the applicant's knowledge and belief the land is not mineral or otherwise reserved; statement of the business of the applicant, which statement shall include full and minute information concerning the extent to which he is engaged in breeding, grazing, driving, or transporting livestock, the number and kinds of such stock, the place where they are being bred or grazed, whether within an enclosure or upon unenclosed lands, and also the points from which and to which they are being driven or transported; description of the land owned or claimed by the applicant in the vicinity of the proposed reservoir and statement of its amount; certificate that no part of the land sought to be reserved is or will be fenced, that all the land will be kept open to the free use of any person desiring to water animals of any kind; and that the lands so sought to be reserved are not, by reason of their proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and rulings of the Land Department.

(*b*) The location of the reservoir described by the smallest legal subdivision (40-acre tracts or lots), its area in acres, its capacity in gallons, the source from which water is to be obtained for such reservoir, whether there are any streams or springs within 2 miles of the land sought to be reserved; and if so, where?

(*c*) The numbers, locations, and areas of all other reservoir sites filed upon by the applicant, especially designating those in the county in which the proposed reservoir is located.

21. *Action by the Land Department on declaratory statements and size, location, and number of reservoir sites.*—When such declaratory statement is filed the date of filing will be noted thereon over the signature of the officer receiving it, and the statements will be numbered according to order of June 1, 1908. The register will make the usual notations on the records, in pencil, under the designation of "Reservoir Declaratory Statement No. —," adding the date of the act. For the filing of such reservoir declaratory statement the local officers will be authorized to charge the usual fee (sec. 2238, U. S. Rev. Stat.). The local officers will forward the declaratory statement with the regular monthly returns, with abstracts, in the usual manner. In acting upon these statements the following general rules will be applied:

(*a*) No reservation will be made for a reservoir of less than 250,000 gallons capacity, and for a reservoir of less than 500,000 gallons capacity, not more than 40 acres can be reserved. For a reservoir of 1,000,000 gallons capacity, not more than 80 acres can be reserved. For a reservoir of 1,000,000 gallons and less than 1,500,000 gallons capacity, not more than 120 acres can be reserved. For a reservoir of 1,500,000 gallons capacity or more, 160 acres may be reserved. In the case where the water is furnished the livestock by artificial means, such as by windmill, pump, tanks, troughs, etc., the regulations requiring a minimum capacity of 250,000 gallons may be waived upon the claimant's submitting a satisfactory showing that by such artificial means he will be able to furnish sufficient water and provide proper troughs, etc., to properly accommodate all cattle likely to water at the place in question.

(*b*) Not more than 160 acres shall be reserved for this purpose in any section.

(*c*) Not more than 160 acres shall be reserved for this purpose in one group of tracts adjoining or cornering upon each other.

(*d*) A distance of one-half mile must be left between any two groups of tracts which aggregate more than 160 acres.

(*e*) The local officers will reject any reservoir declaratory statement not in conformity with these rules.

(*f*) Lands so reserved shall not be fenced, but shall be kept open to the free use of any person desiring to water animals of any kind. If lands so reserved are at any time fenced or otherwise enclosed, or if they are not kept open to the free use of any person desiring to water animals of any kind, or if the reservoir applicant attempts to use them for any other purpose, or if the reservation is not obtained for the bona fide and exclusive purpose of constructing and maintaining a reservoir thereon according to law, the declaratory statement, upon any such matter being made to appear, will be canceled and all rights thereunder be declared at an end.

(*g*) Notwithstanding the action of the local officers in accepting any such declaratory statement, the Commissioner of the General Land Office will reject the same if upon considering the matters set forth therein it appears that the declaratory statement is not filed in good faith for the sole purpose of accomplishing what the law authorizes to be done.

22. *Construction.*—The reservoir must be completed and constructed within 2 years after the filing of the declaratory statement; otherwise the declaratory statement will be subject to cancellation.

23. *Map of constructed reservoir.*—After the construction and completion of the reservoir the applicant shall have the same accurately surveyed and mapped in accordance with regulations 4 and 9, so far as they are applicable. The map, which is not to be prepared in duplicate, must be filed in the proper local office and must bear Forms 8 and 9 (p. 20).

24. *Action by register.*—When the map and other papers have been filed in the local office, the date of filing will be noted thereon and the proper notations will be made on the local office records, as in the case of the declaratory statement. The register will then promptly forward the map and papers to the General Land Office.

25. *Approval of constructed project.*—The map and papers will be examined in the General Land Office to determine whether they comply with the law and the regulations, and whether the amount of land desired is warranted by the showing made in the application. If found satisfactory, they will be submitted to the Secretary of the Interior, and upon approval, the lands shown to be necessary for the proper use and enjoyment of the reservoir will be reserved from other disposition so long as the reservoir is maintained and water kept therein for the purposes named in the act. Upon the receipt of notice of such reservation from the General Land Office, the register will make the proper notations on his records and report the making thereof promptly to the General Land Office.

26. *Annual proof of maintenance.*—In order that this reservation shall be continued it is necessary that the reservoir "shall be kept in repair and water kept therein." For this reason the owner of the reservoir will be required, during the month of January of each year, to file in the local office an affidavit to the effect that the reservoir has been kept in repair and water kept therein during the preceding year, and that all the provisions of the act have been complied with. Form 10 (p. 21) will be used for this affidavit. Upon failure to file

such affidavit, steps will be taken looking to the revocation of the reservation of the lands.

27. *Reservoir on unsurveyed land.*—In any case where the proposed reservoir is to be located upon unsurveyed public land, the declaratory statement may be filed, the land being therein described by metes and bounds and, as well, by the description which it is believed it will bear when officially surveyed. Proof of construction must be submitted at the end of the same period of time and in the same manner as is prescribed and required in cases where the lands have been previously surveyed. Such proof should embrace the field notes and a plat of survey such as is required in cases of reservoirs on surveyed lands, with such modifications as are necessary (regulation 23).

(*a*) Any reservation made pursuant to this statute secures only a license to use and occupy the reserved land with and for a reservoir, and this license may endure permanently or may be of transient duration. No estate in the land is granted. For this reason it is administratively undesirable that private surveys made pursuant to the statute and these regulations shall be preserved and established by subsequent public-land surveys and approved plats thereof. When, therefore, the public-land surveys have been extended over land covered by a reservoir declaratory statement affecting unsurveyed lands, the declarant shall adjust his survey to the lines of the official survey, showing the location of the reservoir with respect to said lines by means of properly established tie lines. Any subsequent reservation which may be ordered will be of those subdivisions thus shown to be occupied by or necessary for the proper use of the reservoir.

(*b*) An annual affidavit of maintenance must be submitted the same as though the reservoir had been constructed on surveyed lands. Nothing in these regulations contained shall preclude the General Land Office or the Department from requiring additional information in any case where that information is deemed proper or necessary.

FENCING OF STOCK-WATERING RESERVOIRS

28. *Statutory authority.*—The act of Congress approved March 3, 1923 (42 Stat. 1437), amends section 1 of the act of January 13, 1897 (29 Stat. 484), so as to authorize the Secretary of the Interior, in his discretion, under such rules, regulations, and conditions as he may prescribe, upon application by such person, company, or corporation, to grant permission to fence such reservoirs constructed under the act of January 13, 1897, in order to protect livestock, to conserve water, and to preserve its quality and conditions.

This act applies only to stock-watering reservoirs which have been or may hereafter be constructed and due proof of construction filed in the General Land Office.

29. *Application for permission to fence reservoir.*—Any person, company, or corporation desiring to secure the benefits of this act should file in the local land office an application, under oath, duly corroborated by at least two disinterested witnesses, setting forth such facts as would show that it is necessary to fence such reservoir in order to protect the livestock, to conserve water, and to preserve its quality and conditions. There should be filed with such application, and as a part thereof, a plat showing the land embraced in the reservoir as near as may be, the location of the proposed fence with respect to such

reservoir, together with all gates or other openings and roadways leading to the same. In no instance will an application be considered unless said plat shows the location of at least two gates. Said gates shall be so constructed and maintained that they may be, at all times, readily opened and closed by any person desiring to water animals of any kind, and such gates shall be so placed as to be readily accessible from the road or roads nearest the reservoir, which roads shall be the ones usually traveled and, where there are no such roads whereby to govern the location of such gates, they shall be so situated as to make the reservoir readily available from the adjacent public or other range; and that there shall be posted on the gates, and elsewhere if necessary, a notice stating that the reservoir is for stock-watering purposes, located on public lands, and that the same is opened to the free use of any person desiring to water animals of any kind.

30. *Action on application.*—Upon the filing of such an application, it should be considered by the local office as an additional paper in the case and transmitted to the General Land Office by special letter under the serial number of the reservoir declaratory statement for such action as may be deemed proper.

RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES, PIPE LINES, CANALS, DITCHES, WATER PLANTS, ETC.

31. *Statutory authority.*—The act of February 15, 1901 (31 Stat. 790; 43 U. S. C. 959), authorizes the Secretary of the Interior, under such regulations as he may fix, to permit the use of rights-of-way through public lands and certain reservations of the United States, for telephone and telegraph lines, pipe lines, canals, ditches, water plants, etc., to the extent of the ground occupied by such canals, ditches, or water plants, or other works permitted thereunder, and not to exceed 50 feet on each side of the marginal limits thereof, or not to exceed 50 feet on each side of the center line of such pipe lines, telephone and telegraph lines, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted under said act.

32. *Applications which may be submitted.*—Although the act of February 15, 1901, does not expressly repeal any provision of law relating to the granting of permission to use rights-of-way contained in the act of January 21, 1895, and section 1 of the act of May 11, 1898, yet in view of the general scope and purpose of the act, and of the fact that Congress has, with the exception above noted, embodied therein the main features of the former acts relative to the granting of a mere permission or license for such use, it is evident that, for the purposes of administration, the act of February 15, 1901, should control insofar as it pertains to the granting of permission to use rights-of-way for purposes therein specified. Accordingly, all applications for permission to use rights-of-way for the purposes specified in the act of February 15, 1901, must be submitted thereunder. Where, however, it is sought to acquire a right-of-way for the main purpose of irrigation as contemplated by sections 18 to 21 of the act of March 3, 1891 (26 Stat. 1095), and section 2 of the act of May 11, 1898, supra, the application must be submitted in accordance with the regulations issued under said acts.

(*a*) An application may be filed under the act of February 15, 1901, for a stock-watering reservoir site. An application under the act for a "water plant" site or for a pipe line right-of-way may include an area for a well to supply the water; but if, because the lands affected are within a grazing district established under the grazing act of June 28, 1934 (48 Stat. 1269), or for any other reason, the granting of a permit for a stock-watering reservoir site, or for a water plant site or for a pipe line right-of-way would adversely affect the interests of the Government, the applications therefor will not be allowed. If the lands affected are within a grazing district, an application for a stock-watering reservoir or water well site should be filed under section 4 of said act of June 28, 1934, with the regional grazier, if the applicant is qualified under the section; and if the reservoir or well is necessary to the care and management of the permitted livestock and primarily for that purpose. Regulations under the said section 4 are contained in a separate circular which will be sent by the regional grazier upon request.

33. *No rights acquired prior to filing and approval of application.*—Application under the act of February 15, 1901, for permission to use the desired right-of-way through the public lands and parks designated in the act must be filed and approved before any rights can be claimed thereunder.

34. *Nature of permit.*—It is to be specially noted that the act of February 15, 1901, does not make a grant in the nature of an easement but authorizes a mere permit in the nature of a license, which permit may be revoked by the Secretary, or his successor, at any time in his discretion. Further, it gives no right whatever, to take from public lands, reservations, or parks adjacent to the right-of-way, any materials, earth, or stone for construction or other purposes. The final disposal by the United States of any tract traversed by a right-of-way permitted under this act shall not be considered to be a revocation of such permission in whole or in part but such final disposal shall be deemed and taken to be subject to such right-of-way until such permission shall have been specifically revoked in accordance with the provisions of said act.

35. *When application should be made to Department of Agriculture.*—Section 1 of the act of February 1, 1905 (33 Stat. 628), vested jurisdiction in the Department of Agriculture to pass upon all applications under any law of the United States providing for the granting of a permission to occupy and use lands in a national forest, provided this occupation or use is temporary, and will in no wise affect the fee or cloud the title of the United States should the reserve be discontinued.

Therefore, when it is desired to obtain permission under the act of February 15, 1901, to use a right-of-way over public lands wholly within a national forest, an application should be prepared in accordance with the instructions issued by the Department of Agriculture, and should be filed with the officer in charge of such national forest.

In case the applicant desires rights and privileges upon public lands partly within and partly without a national forest, separate applications must be prepared, and the one affecting lands within the national forest filed with the forest officer and the other filed in the local land office.

36. *Buildings to be platted on map in main drawing and in separate drawing.*—When application is made for right-of-way for water plants, the location and extent of ground proposed to be occupied by buildings or other structures necessary to be used in connection therewith must be clearly designated on the map and described (forms 5 and 6, pages 18 and 19) by reference to course and distance from a corner of the public survey. In addition to being shown in connection with the main drawing, the buildings or other structures must be platted on the map in a separate drawing on a scale sufficiently large to show clearly their dimensions and relative positions. When two or more such proposed structures are to be located near each other, it will be sufficient to give the reference to a corner of the public survey for one of them, provided all the others are connected therewith by course and distance shown on the map. The applicant must also file an affidavit setting forth the dimensions and proposed use of each of the structures, and must show definitely that each one is necessary for a proper use of the right-of-way for the purposes contemplated in the act.

37. *Unsurveyed lands.*—Permission may be given under this act (February 15, 1901), for rights-of-way upon unsurveyed lands, maps to be prepared in accordance with the requirements of this circular.

38. *National parks.*—Whenever a right-of-way is through any of the national parks designated in the act, for purposes other than those excepted by the act of March 3, 1921 (regulation 7) the applicant must show to the satisfaction of the Department that the location and use of the right-of-way for the purposes contemplated will not interfere with the uses and purposes for which the park was originally dedicated, and will not result in damage or injury to the natural conditions of property or scenery existing therein. The applicant must also file such stipulations and bond as may be required by the Director of the National Park Service.

Whenever right-of-way within a park is desired for operations in connection with mining, quarrying, cutting timber, or manufacturing lumber, a satisfactory showing must be made of the applicant's right to engage in such operations within the park.

39. *Indian reservations.*—Applications for right-of-way, under the act of February 15, 1901, all of which are located upon land within an Indian reservation, and applications for right-of-way affecting lands within and without Indian reservations must be filed in the local land office for forwarding to the Commissioner of the General Land Office. Before such applications are transmitted to the Department, they will be submitted by the Commissioner of the General Land Office to the Commissioner of Indian Affairs for such action and recommendation as that officer may deem proper insofar as the same pertains to such Indian reservation. Attention is directed to the provisions of section 3 of the act of March 3, 1901 (31 Stat. 1083), which authorizes the granting of permanent rights-of-way, in the nature of easements, for telegraph and telephone purposes only, through Indian reservations and other Indian lands, upon payment of proper compensation for the benefit of the Indians interested therein. The provisions of the act of March 3, 1901, and the nature and character of the rights authorized to be secured thereunder differ materially from the provisions of the act on which these regulations are based and the rights authorized to be conferred

thereunder. Applicants desiring to secure permanent rights-of-way through Indian reservations or other Indian lands for telegraph and telephone purposes will, therefore, be required to submit their applications under the act of March 3, 1901, supra, in accordance with the then current regulations issued thereunder. (For existing regulations under said act, see Indian Office regulations approved May 22, 1928.)

RIGHTS-OF-WAY OVER PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES

40. *Statutory authority.*—The act of March 4, 1911 (36 Stat. 1253; 43 U. S. C. 961), authorizes the head of the department having jurisdiction over the lands, under such regulations as may be fixed by him to permit the use of rights-of-way for a period not exceeding 50 years, over and across public lands and reservations of the United States, for telephone and telegraph lines to the extent of 20 feet on each side of the center line of such telephone and telegraph lines, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted under said act.

41. *Jurisdiction over land.*—For the purposes of this statute, national parks, Indian reservations, and reservations for water power sites, irrigation, classification of lands, or other purposes, created under the withdrawal act of June 25, 1910 (36 Stat. 847), are considered to be under the jurisdiction of the Department of the Interior; military reservations under the jurisdiction of the War Department; and reservations created for the special occupancy, use, or control of other departments under the jurisdiction of such departments, respectively. The Attorney General on February 3, 1912, advised the Secretaries of the Interior and Agriculture that, for this purpose, national forests are under the jurisdiction of the Department of Agriculture (29 Op. 303).

42. *Nature of permit.*—This act, which authorizes the granting of easements for telephone and telegraph lines for stated periods not to exceed 50 years, follows, as closely as is possible in the accomplishment of its purposes, the language of the act of February 15, 1901 (31 Stat. 790), which authorizes mere revocable permits or licenses not only for such lines but for other purposes.

RIGHTS-OF-WAY THROUGH NATIONAL FORESTS FOR DAMS, RESERVOIRS, WATER PLANTS, DITCHES, FLUMES, PIPES, TUNNELS, AND CANALS FOR MUNICIPAL OR MINING PURPOSES

43. *Statutory authority.*—Section 4 of the act of February 1, 1905 (33 Stat. 628; 16 U. S. C. 524), grants rights-of-way through national forests to citizens and corporations of the United States, for the construction and maintenance of dams, reservoirs, water plants, pipes, tunnels, and canals, for municipal or mining purposes, during the period of the beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

44. *Commencement of construction.*—No construction will be allowed in national forests until an application for right-of-way has been regularly filed in accordance with these regulations and has been

approved by the Secretary of the Interior, or unless permission has been specifically given.

45. *Nature of grant.*—Grants made under the act are base fees with possibility of reverter to the Government in the event the grantee or successor ceases to use or retain the lands for the purposes for which they were granted. No right, whatever, is given to take any material, earth, or stone for construction or other purposes, nor is any right given to use any land outside of what is actually necessary for the construction and maintenance of the works.

46. *Water plant structures.*—When application is made for right-of-way for water plants, regulation 36 should be followed, with appropriate changes in the prescribed forms.

47. *Unsurveyed lands.*—Maps showing reservoirs, canals, water plants, etc., wholly upon unsurveyed lands, will be received and acted upon in the manner prescribed for surveyed lands.

RIGHTS-OF-WAY OVER PUBLIC LANDS FOR TRAMROADS, TRAMWAYS, LOGGING, AND OTHER ROADS

48. *Statutory authority.*—The act of January 21, 1895 (28 Stat. 635; 43 U. S. C. 956), authorizes the Secretary of the Interior under such regulations as may be fixed by him to permit the use of rights-of-way over the public lands of the United States, for tramroads to the extent of 50 feet on each side of the center line of the tramroad, by any citizen or association of citizens of the United States, engaged in the business of mining, or quarrying or of cutting timber and manufacturing lumber. The act does not authorize the use of rights-of-way within the limits of any park, national forest, military reservation or Indian reservation.

49. *Tramroads defined.*—This act has been superseded by other acts given in this circular, except as to tramroads. Tramroads is considered as including tramways, narrow-gage railroads, and wagon or motor-truck roads to be used in connection with mining, quarrying, logging, and the manufacturing of lumber.

50. *Nature of permit.*—Permission to use rights-of-way for tramroads over public lands, when granted, only confers a right in the nature of a license and is subject to all the conditions and limitations hereinbefore stated in regulation 34.

RIGHTS-OF-WAY OVER PUBLIC LANDS AND RESERVATIONS FOR HIGHWAYS AND ROAD-BUILDING MATERIAL SITES

51. *Statutory authority.*—Section 17 of the Federal Aid Highway Act of November 9, 1921 (42 Stat. 212; 23 U. S. C. 18), authorizes the transfer of public lands and reservations of the United States to the State highway departments on determination by the Secretary of Agriculture that such lands are necessary for the right-of-way for any highway or forest road or as a source of materials for the construction and maintenance of such roads and highways, and after his request for such transfer with a map showing the portions of such lands which it is desired to appropriate.

This statute provides that if within a period of 4 months after such filing the Secretary of the Interior shall not have certified to the Secretary of Agriculture that the proposed transfer of such lands is contrary to public interest or inconsistent with the object of the

Government, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the protection of the Government's interest, then such land or materials may be appropriated and transferred to the State highway departments for such purposes. If and when the need for any such land or materials shall no longer exist, notice of that fact must be given by the State highway department to the Secretary of Agriculture, and such lands or materials will immediately revert to the control of the Department of the Interior.

52. *Filing of application.*—Where a highway is to be constructed or improved under the provisions of the act of November 9, 1921, and the amendment or supplements thereto, the State highway departments may take advantage of the provisions of section 17 of said act by filing application and maps with the register of the land office for the district in which the lands affected are situated, in the manner prescribed by regulations 1 and 4. Application for rights-of-way under section 17 of said act should be filed by the State highway department of the particular State and not by any political subdivision of the State. No application will be received by the register under said section 17 for rights-of-way for highways or material sites affecting lands entirely within a national forest or an Indian reservation.

53. *Action on application.*—Upon receipt of an application in the local land office, filed under section 17, action thereon will be taken in accordance with regulation 8. If unpatented lands are affected, the register will forward the application and map, or set of maps, to the General Land Office and will return the duplicate map, or maps, to the State highway department which will forward them to the Bureau of Public Roads for submission to the Secretary of Agriculture for his determination that the lands are necessary for right-of-way for the highway or road-building material site purpose, as required by the act.

RIGHTS-OF-WAY FOR ROADS AND HIGHWAYS OVER PUBLIC LANDS

54. *Statutory authority.*—By section 2477, U. S. R. S., 43 U. S. C. 932, it is provided:

> The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

55. *When grant becomes effective.*—This grant becomes effective upon the construction or establishing of highways, in accordance with the State laws, over public lands not reserved for public uses. No application should be filed under the act, as no action on the part of the Federal Government is necessary.

RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR OIL AND NATURAL GAS PIPE LINES AND PUMPING PLANT SITES

56. *Statutory authority.*—Section 28 of the act of February 25, 1920 (41 Stat. 437), as amended by the act of August 21, 1935 (49 Stat. 674; 30 U. S. C. 185), authorizes the Secretary of the Interior to grant rights-of-way through the public lands, including the forest reserves of the United States, for pipe line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications pro-

vided in section 1 of the act, to the extent of the ground occupied by the said pipe line and 25 feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by him, and upon the express conditions, provisions, and limitations enumerated in said section 28.

Section 29 of said act provides, in part:

> That any permit, lease, occupation, or use permitted under this act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes.

57. *Qualification of applicants.*—Application may be filed by citizens of the United States, or association of such persons, any corporation organized under the laws of the United States, or of any State or Territory, and municipalities.

58. *Use of pipe line.*—The applicant shall state in the application (preferably in the certificate written on the face of the map), the specific use, within the purview of the act, to which the pipe line is to be put, and any approval of the grant for the right-of-way shall be limited to such specific use, unless otherwise stated in the approval. No change in the use of the pipe line, other than that authorized by the approval, shall be allowed except with approval in writing first obtained from the Secretary of the Interior, and upon such terms and conditions as the Secretary may prescribe as a prerequisite to the approval of the change of use.

59. *Approval of right-of-way.*—The approval of such rights-of-way grant shall be subject to the express conditions that the use of the pipe line for the transportation of oil, gas, or other similar natural products, shall be limited to such products produced in conformity with State and Federal laws, including laws prohibiting waste.

60. *Pumping plant site.*—By opinion of December 2, 1931 (36 Op. Atty. Gen. 480), the Attorney General held that under section 28 of the act there may be granted a site for a pumping station reasonably necessary to the operation of a pipe line on a right-of-way granted under the section.

61. *Trespass.*—Any occupancy or use of public lands, including reservations, parks, or national forests, without proper authority, constitutes a trespass.

FRED W. JOHNSON,
Commissioner, General Land Office.

I concur:
W. C. MENDENHALL,
Director of Geological Survey.

Approved May 23, 1938.
OSCAR L. CHAPMAN,
Assistant Secretary.

FORMS [1]

Forms To Be Placed on Maps

(Form 1)

State of ______________,
County of ______________, *ss:*

______________________________, being duly sworn, says he is the chief engineer of (or the person employed to make the survey by) the ______________________________ company; that the survey of said company's (canals, ditches, and reservoirs), as described and shown on this map (being a total length of canals, ditches, and laterals of ____ miles, and a total area of reservoirs at ______ acres), was made by him (or under his direction) as chief engineer of the company (or as surveyor employed by the company) and under authority, commenced on the ______ day of __________ 19__, and ending on the ______ day of __________ 19__ (and that the survey of the said canals, ditches, laterals, and reservoirs) accurately represents (a proper grade line for the flow of water, and accurately represents a level line, which is the proposed water line of the said reservoir), and that such survey is accurately represented upon this map. (And no lake or lake bed, stream or stream bed, is used for the said (canals, ditches, laterals, and reservoirs) except as shown on this map.)

______________________________,

______________________________.

Sworn and subscribed to before me this ______ day of __________, 19__.
[SEAL] ______________________________,
Notary Public.

(Form 2)

I, ______________________________, do hereby certify that I am president of the ______________________________ company; that ______________________________, who subscribed the accompanying affidavit, is the chief engineer of (or was employed to make the survey by) the said company; that the survey of the said (canals, ditches, laterals, and reservoirs), as accurately represented on this map, was made under authority of the company; that the company is duly authorized by its articles of incorporation to construct the said (canals, ditches, laterals, and reservoirs) upon the location shown upon this map; that the said (canals, ditches, laterals, and reservoirs), as represented on this map, was adopted by the company, by resolution of its board of directors, on the _______ day of _________ 19__, as the definite location of the said (canals, ditches, laterals, and reservoirs) and that no lake or lake bed, stream or stream bed is used for the said (canals, ditches, laterals, and reservoirs) except as shown on this map; and that the map has been prepared to be filed for the approval of the Secretary of the Interior, in order that the company may obtain the benefits of (sections 18 to 21, inclusive, of the acts of Congress approved March 3, 1891, entitled "An act to repeal timber-culture laws, and for other purposes," and section 2 of the act approved May 11, 1898); and I further certify that the right-of-way herein described is desired for the main purpose of irrigation.

Attest:

______________________________,

President of the ____________________ *Company.*

[Seal of the company] ______________________________,
Secretary.

Forms for Proof of Construction

(Form 3)

State of ______________,
County of ______________, *ss:*

______________________________, being duly sworn, says that he is the chief engineer of (or was employed to supervise or check the construction of the canals, ditches, laterals, and reservoirs of) the ______________________________ company; that said (canals, ditches, laterals, and reservoirs) have been constructed under his supervision; that construction was commenced on the ______ day of __________ 19__, and completed on the ______ day of __________ 19__; that the constructed (canals, ditches, laterals, and reservoirs) as aforesaid, conform to the map which received the approval of the Secretary of the Interior on the ______ day of __________ 19__.

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[1] Where necessary, these forms should be modified so as to be appropriate to the applicant (corporation, association, or individual), to the act invoked, and to the nature of the project.

______________________________,

______________________________.

Sworn and subscribed to before me this ______ day of __________ 19__.

______________________________.

(Form 4)

I, ______________________________, do certify that I am the president of the ______________________________ company; that the (canals, ditches, laterals, and reservoirs) were actually constructed as set forth in the accompanying affidavit of ______________________________, chief engineer (or the person employed by the company in the premises), and on the exact location represented on the map approved by the Secretary of the Interior on the ______ day of __________ 19__; and that the company has in all things complied with the requirements of the act of Congress. (March 3, 1891, granting rights-of-way for canals, ditches, and reservoirs through the public lands of the United States.)

[SEAL OF COMPANY] ______________________________,

President of the ____________________ *Company.*

Attest:

______________________________,

Secretary.

FORMS FOR WATER PLANTS ONLY

(Act of February 15, 1901, or February 1, 1905)

(Form 5)

State of ______________,
County of ______________, *ss:*

______________________________, being duly sworn, says he is the chief engineer of (or the person employed by) the ______________________________ company, under whose supervision the survey was made of the grounds selected by the company for structures for a water plant under the act of Congress approved February 15, 1901 (or act of February 1, 1905), said grounds (here describe as required by regulation 36); that the accompanying drawing correctly represents the locations of the said structures; and that in his belief the structures represented are actually and to their entire extent required for the necessary uses contemplated by the said act of February 15, 1901 (31 Stat. 790), (or February 1, 1905).

______________________________,

Chief Engineer.

Subscribed and sworn to before me this ______ day of __________ 19__.

[SEAL] ______________________________,

Notary Public.

(Form 6)

I, ______________________________, do hereby certify that I am the president of the ______________________________ company; that the survey of the structures represented on the accompanying drawing was made under authority and by direction of the company, and under the supervision of ______________________________, its chief engineer (or the person employed in the premises), whose affidavit precedes this certificate; that the survey as represented on the accompanying drawing actually represents the structures required (here describe as required by regulation 36) for water plant, under the act of Congress approved

February 15, 1901 (or act of February 1, 1905); and that the company, by resolution of its board of directors, passed on the ______ day of ____________________ __________, 19__, directed the proper officers to present the said drawing for the approval of the Secretary of the Interior in order that the company may obtain the use of the grounds required for said structures, under the provisions of said act approved February 15, 1901 (31 Stat. 790), or (February 1, 1905).

[SEAL OF THE COMPANY] ______________________________,
President of the ____________________ *Co.*

Attest:

______________________________,
Secretary.

(Form 7)

RESERVOIR DECLARATORY STATEMENT

(Under act of January 13, 1897 (29 Stat. 484))

Res. D. S.
No. ____. Land Office at ______________________________.
______________________________, 19__.

I, ________________________________, of ____________________, do hereby certify that I am president of the ____________________________ company, and on behalf of said company, and under its authority, do hereby apply for the reservation of land in ____________ County, State of ____________, for the construction and use of a reservoir for furnishing water for livestock under the provisions of the act of January 13, 1897 (29 Stat. 484). The location of said reservoir and of the land necessary for its use, is as follows: ______ of section ____ in township ____, of range ____ M., containing ______ acres.

I hereby certify that to the best of my knowledge and belief the said land is not occupied or otherwise claimed, is not mineral or otherwise reserved, and that the said reservoir is to be used in connection with the business of the applicant of ____
____

The land owned or claimed by the applicant within the vicinity of the said reservoir (within 3 miles) is as follows:
____

I further certify that no part of the land to be reserved under this application is or will be fenced; that the same shall be kept open to the free use of any person desiring to water animals of any kind; that the land will not be used for any purpose except the watering of stock; and that the land is not, by reason of its proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and rulings of the Land Department.

The water of said reservoir will cover an area of ______ acres in ______ of section ______ in township ______, of range ______ of said lands; the capacity of the reservoir will be __________ gallons, and the dam will be ______ feet high. The source of the water for said reservoir is____________________________
____
and there are no streams or springs within 2 miles of the land to be reserved except as follows: ____.

The applicant has filed no other declaratory statements under this act except as follows:

No. ____, __________________________ land office, area to be reserved ______ acres.
No. ____, __________________________ land office, area to be reserved ______ acres.
No. ____, __________________________ land office, area to be reserved ______ acres.
No. ____, __________________________ land office, area to be reserved ______ acres.
Total, ________ acres, of which Nos. ____ are located in said county.

And I further certify that it is the *bona fide* purpose and intention of this applicant to construct and complete said reservoir and maintain the same in accordance with the provisions of said act of Congress and such regulations as are or may be prescribed thereunder.

[SEAL OF COMPANY] ______________________________.

Attest:

______________________________,
Secretary.

State of ______________,

County of ______________, *ss:*

______________________________, being duly sworn, deposes and says that the statements herein made are true to the best of his knowledge and belief.

______________________________.

Sworn to and subscribed before me this ______ day of __________, in the year 19__.

______________________________,

Notary Public.

Land Office at ____________________,

____________________, 19__.

I, ________________________________, register of the land office, do hereby certify that the foregoing application is for the reservation of lands subject thereto under the provisions of the act of January 13, 1897; that there is no prior valid adverse right to the same; and that the land is not, by reason of its proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and ruling of the Land Department.

Fees, $__________ paid.

______________________________,

Register.

(Form 8)

State of ______________,

County of ______________, *ss:*

______________________________, being duly sworn, says that he is the person who was employed to make the survey of a reservoir covering an area of ______ acres, the initial point of the survey being ____________________________________ (here describe as required by regulation 4a), said reservoir having been constructed upon the ____________ quarter of the ____________ quarter of section ______, township ______, range ______, ______ principal meridian, as proposed by reservoir declaratory statement No. ____, which was filed in the local land office at ____________________, under the provisions of the act of January 13, 1897 (29 Stat. 484); that the said survey was made on the ______ day of __________, 19__; that the dam and all necessary works have been constructed in a substantial manner; that the reservoir has a capacity of __________ gallons, and at the time of said survey contained __________ gallons of water.

______________________________.

Sworn and subscribed to before me this ______ day of __________, 19__.

______________________________,

Notary Public.

(Form 9)

I, ________________________________, do hereby certify that I am the president of the ________________________________ company which filed (or that I am the person who filed) reservoir declaratory statement No. ____ in the local land office at ____________________; that the reservoir proposed to have been constructed upon the ____________ quarter of the ____________ quarter of section ______, township ______, range ______, ______ principal meridian, covering an area of ______ acres, the initial point of the survey being ____________________________ (describe as in form 8); that the dam and all necessary works have been constructed in a substantial manner in good faith in order that the reservoir may be used and maintained for the purpose, and in the manner prescribed by the said act of January 13, 1897 (29 Stat. 484), the provisions of which have been and will be complied with in all respects.

[SEAL OF COMPANY] ______________________________,

President of Company.

Attest:

______________________________,

Secretary.

(Form 10)

State of _______________,

County of _______________, *ss:*

_______________________________, being duly sworn, deposes and says that he is the President of the _______________________________ company which filed (or that he is the person who filed) reservoir declaratory statement No. ____, in the local land office at ____________________; that the reservoir constructed in pursuance thereof, as heretofore certified, has been kept in repair; that the water has been kept therein to the extent of not less than __________ gallons during the entire calendar year of 19__; that neither the reservoir nor any part of the land reserved for use in connection therewith is or has been fenced during said years; and that the said company has in all things complied with the provisions of the act of January 13, 1897 (29 Stat. 484).

_______________________________,

President of ____________________ *Company.*

Sworn and subscribed to before me this ______ day of __________, 19__.

[SEAL]

_______________________________,

Notary Public.

STATUTES

TRANSFER BY HOMESTEADER OF LAND FOR RIGHTS-OF-WAY

Section 2288, United States Revised Statutes:

Any bona fide settler under the homestead, or other settlement law, shall have the right to transfer by warranty against his own acts any portion of his claim for church, cemetery, or school purposes, or for the right-of-way of railroads, telegraph, telephones, canals, reservoirs, or ditches for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to his claim. (As amended by act of March 3, 1905.)

VESTED AND ACCRUED WATER RIGHTS

Section 2339, United States Revised Statutes:

Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right-of-way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

RESERVATION IN PATENTS OF RIGHTS-OF-WAY

Section 2340, United States Revised Statutes:

All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by the preceding section.

The act of August 30, 1890 (26 Stat. 371–391), among other things, provides:

That in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this act west of the one-hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described, a right-of-way thereon for ditches or canals constructed by the authority of the United States.

CANALS, DITCHES, AND RESERVOIRS FOR IRRIGATION

Section 18 of the act of March 3, 1891 (26 Stat. 1095), as amended by the acts of March 4, 1917 (39 Stat. 1197), and May 28, 1926 (44 Stat. 668), reads as follows:

That the right-of-way through the public lands and reservations of the United States is hereby granted to any canal ditch company, irrigation or drainage district formed for the purpose of irrigation or drainage, and duly organized under the laws of any State or Territory, and which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation or, if not a private corporation, a copy of the law under which the same is formed and due proof of its organization under the same, to the extent of the ground occupied by the water of any reservoir and of any canals and laterals and fifty feet on each side of the marginal limits thereof, and, upon presentation of satisfactory showing by the applicant, such additional right-of-way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals; also the right to take from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch: *Provided*, That no such right-of-way shall be so located as to interfere with the proper occupation by the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation; and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories.

Sections 19, 20, and 21 of the act of March 3, 1891, read as follows:

SEC. 19. That any canal or ditch company desiring to secure the benefits of this act shall, within twelve months after the location of ten miles of its canal if the same be upon surveyed lands, and if upon unsurveyed lands within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a map of its canal or ditch and reservoir; and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such rights-of-way shall pass shall be disposed of subject to such right-of-way. Whenever any person or corporation in the construction of any canal, ditch, or reservoir injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 20. That the provisions of this act shall apply to all canals, ditches, or reservoirs heretofore or hereafter constructed, whether constructed by corporation, individuals, or association of individuals, on the filing of the certificates and maps herein provided for. If such ditch, canal, or reservoir has been or shall be constructed by an individual or association of individuals, it shall be sufficient for such individual or association of individuals to file with the Secretary of the Interior and with the register of the land office where said land is located a map of the line of such canal, ditch, or reservoir, as in case of a corporation, with the name of the individual owner or owners thereof, together with the articles of association, if any there be. Plats heretofore filed shall have the benefits of this act from the date of their filing, as though filed under it: *Provided*, That if any section of said canal or ditch shall not be completed within five years after the location of said section the rights herein granted shall be forfeited as to any uncompleted section of said canal, ditch, or reservoir, to the extent that the same is not completed at the date of the forfeiture.

SEC. 21. That nothing in this act shall authorize such canal or ditch company to occupy such right-of-way except for the purpose of said canal or ditch, and then only so far as may be necessary for the construction, maintenance, and care of said canal or ditch.

Section 2 of the act of May 11, 1898 (30 Stat. 404), provides:

That rights-of-way for ditches, canals, or reservoirs heretofore or hereafter approved under the provisions of sections eighteen, nineteen, twenty and twenty-one of the act entitled "An Act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one, may be used for purposes of a public nature; and said rights-of-way may be used for purposes of water transportation, for domestic purposes, or for the development of power, as subsidiary to the main purpose of irrigation.

CARETAKER'S BUILDING SITES

The act of March 1, 1921 (41 Stat. 1194), provides:

That in addition to the rights-of-way granted by sections 18, 19, 20, and 21 of the act of Congress entitled "An act to repeal timber-culture laws, and for other purposes," approved March 3, 1891 (Twenty-sixth Statutes, p. 1095), as amended by the act of Congress entitled "An act to amend the irrigation act of March 3, 1891 (Twenty-sixth Statutes, p. 1095, sec. 18), and to amend section 2 of the act of May 11, 1898 (Thirtieth Statutes, p. 404)," approved March 4, 1917 (Thirty-ninth Statutes, p. 1197), and, subject to the conditions and restrictions therein contained, the Secretary of the Interior is authorized to grant permits or easements for not to exceed five acres of ground adjoining the right-of-way at each of the locations, to be determined by the Secretary of the Interior, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the care and management of the works provided for by said acts: *Provided*, That this act shall not apply to lands within national forests.

STOCKWATERING RESERVOIRS

The act approved January 13, 1897 (29 Stat. 484), entitled "An act providing for the location and purchase of public lands for reservoir sites," is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock may construct reservoirs upon unoccupied public lands of the United States, not mineral or otherwise reserved, for the purpose of furnishing water to such livestock, and shall have control of such reservoir, under regulations prescribed by the Secretary of the Interior, and the lands upon which the same is constructed, not exceeding one hundred and sixty acres, so long as such reservoir is maintained and water kept therein for such purposes: *Provided*, That such reservoir shall not be fenced and shall be open to the free use of any person desiring to water animals of any kind.

SEC. 2. That any person, livestock company, or corporation desiring to avail themselves of the provisions of this act shall file a declaratory statement in the United States land office in the district where the land is situated, which statement shall describe the land where such reservoir is to be or has been constructed; shall state what business such corporation is engaged in; specify the capacity of the reservoir in gallons, and whether such company, person, or corporation has filed upon other reservoir sites within the same county; and if so, how many.

SEC. 3. That at any time after the completion of such reservoir or reservoirs which, if not completed at the date of the passage of this act, shall be constructed and completed within two years after filing such declaratory statement, such person, company, or corporation shall have the same accurately surveyed, as hereinafter provided, and shall file in the United States land office in the district in which such reservoir is located a map or plat showing the location of such reservoir, which map or plat shall be transmitted by the register and receiver of said United States land office to the Secretary of the Interior and approved by him, and thereafter such land shall be reserved from sale by the Secretary of the Interior so long as such reservoir is kept in repair and water kept therein.

SEC. 4. That Congress may at any time amend, alter, or repeal this act.

FENCING STOCKWATERING RESERVOIRS

Section 1 of the act of January 13, 1897, as amended by the act of March 3, 1923 (42 Stat. 1437), provides:

The Secretary of the Interior, in his discretion, under such rules, regulations, and conditions as he may prescribe, upon application by such person, company, or corporation, may grant permission to fence such reservoirs in order to protect livestock, to conserve water and to preserve its quality and conditions: *Provided,* That such reservoir shall be open to the free use of any person desiring to water animals of any kind; but any fence erected under the authority hereof shall be immediately removed on the order of the Secretary.

TELEPHONE AND TELEGRAPH LINES, PIPE LINE, WATER PLANTS, ETC.

The act of February 15, 1901 (31 Stat. 790), is as follows:[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him, to permit the use of rights-of-way through the public lands, forest and other reservations of the United States, and the Yosemite, Sequoia, and General Grant National Parks, California, for electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes, and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber or lumber, or the supplying of water for domestic, public, or any other beneficial uses to the extent of the ground occupied by such canals, ditches, flumes, tunnels, reservoirs, or other water conduits or water plants, or electrical or other works, permitted hereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipes and pipe lines, electrical, telegraph, and telephone lines and poles, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted hereunder or any one or more of the purposes herein named: *Provided,* That such permits shall be allowed within or through any of said parks or any forest, military, Indian, or other reservation only upon the approval of the chief officer of the department under whose supervision such park or reservation falls and upon a finding by him that the same is not incompatible with the public interest: *Provided further,* That all permits given hereunder for telegraph and telephone purposes shall be subject to the provision of title sixty-five of the Revised Statutes of the United States, and amendments thereto, regulating rights of way for telegraph companies over the public domain: *And provided further,* That any permission given by the Secretary of the Interior under the provisions of this act may be revoked by him or his successor in his discretion, and shall not be held to confer any right, or easement, or interest in, to, or over any public land, reservation, or park.

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[1] These acts have been superseded in part by the Federal Power Act of June 10, 1920 (41 Stat. 1063), as amended.

The act of March 4, 1911 (36 Stat. 1253), provides, among other things, as follows:[1]

> That the head of the department having jurisdiction over the lands be, and he hereby is, authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the public lands, national forests, and reservations of the United States for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for telephone and telegraph purposes, to the extent of twenty feet on each side of the center line of such electrical, telephone, and telegraph lines and poles, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: *Provided,* That such right-of-way shall be allowed within or through any national park, national forest, military, Indian, or any other reservation only upon the approval of the chief officer of the department under whose supervision or control such reservation falls, and upon a finding by him that the same is not incompatible with the public interest: *Provided,* That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for non-use for a period of two years or for abandonment.
>
> That any citizen, association, or corporation of the United States to whom there has heretofore been issued a permit for any of the purposes specified herein under any existing law may obtain the benefit of this act upon the same terms and conditions as shall be required of citizens, associations, or corporations hereafter making application under the provisions of this statute.

DAMS, RESERVOIRS, WATER PLANTS, DITCHES, CANALS, ETC., IN NATIONAL FORESTS FOR MINING OR MUNICIPAL PURPOSES

Section 4 of the act of Congress approved February 1, 1905 (33 Stat. 628), reads as follows:

> That rights-of-way for the construction and maintenance of dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals, within and across the forest reserves of the United States, are hereby granted to citizens and corporations of the United States for municipal or mining purposes, and for the purposes of the milling and reduction of ores, during the period of the beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said reserves are respectively situated.

TRAMROADS, LOGGING, AND OTHER ROADS

The act of January 21, 1895 (28 Stat. 635), provides as follows:[2]

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and hereby is, authorized and empowered, under the general regulations to be fixed by him, to permit the use of the right-of-way through the public lands of the United States, not within the limits of any park, forest, military, or Indian reservation, for tramroads, canals, or reservoirs to the extent of the ground occupied by the water of the canals and reservoirs and fifty feet on each side of the marginal limits thereof, or fifty feet on each side of the center line of the tramroad, by any citizen or any association of citizens of the United States engaged in the business of mining or quarrying or of cutting timber and manufacturing lumber.

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[1] These acts have been superseded in part by the Federal Power Act of June 10, 1920 (41 Stat. 1063), as amended.

[2] This act has been superseded in part by the act of February 15, 1901 (31 Stat. 790).

HIGHWAYS AND MATERIAL SITES

Section 17 of the act of November 9, 1921 (42 Stat. 212), provides:

That if the Secretary of Agriculture determines that any part of the public lands or reservations of the United States is reasonably necessary for the right-of-way of any highway or forest road or as a source of materials for the construction or maintenance of any such highway or forest road adjacent to such lands or reservation, the Secretary of Agriculture shall file with the Secretary of the department supervising the administration of such land or reservation a map showing the portion of such lands or reservations which it is desired to appropriate.

If within a period of four months after such filing the said Secretary shall not have certified to the Secretary of Agriculture that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to the State highway department for such purposes and subject to the conditions so specified.

If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State highway department to the Secretary of Agriculture, and such lands or materials shall immediately revert to the control of the Secretary of the department from which they had been appropriated.

OIL AND GAS PIPE LINES

Section 28 of the act of February 25, 1920 (41 Stat. 437), as amended by the act of August 21, 1935 (49 Stat. 674), and section 29 of said act read as follows:

SEC. 28. That rights-of-way through the public lands, including the forest reserves of the United States, may be granted by the Secretary of the Interior for pipe-line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of this act to the extent of the ground occupied by the said pipe line and twenty-five feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon the express condition that such pipe lines shall be constructed, operated, and maintained as common carriers and shall accept, convey, transport, or purchase without discrimination oil or natural gas produced from Government lands in the vicinity of the pipe line in such proportionate amounts as the Secretary of the Interior may, after a full hearing, with due notice thereof to the interested parties, and a proper finding of facts, determine to be reasonable: *Provided*, That the Government shall in express terms reserve and shall provide in every lease of oil lands hereunder that the lessee, assignee, or beneficiary, if owner, or operator or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipe line operating a lease or purchasing gas or oil under the provisions of this act: *Provided further*, That no right-of-way shall hereafter be granted over said lands for the transportation of oil or natural gas except under and subject to the provisions, limitations, and conditions of this section. Failure to comply with the provisions of this section of the regulations and conditions prescribed by the Secretary of the Interior shall be ground for forfeiture of the grant by the United States district court for the district in which the property, or some part thereof, is located in an appropriate proceeding.

SEC. 29. That any permit, lease, occupation, or use permitted under this act shall reserve to the Secretary of the Interior the right to permit, upon such terms as he may determine to be just, for joint or several use, such easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used, as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes: *Provided*, That said Secretary, in his discretion, in making any lease under this act, may reserve to the United States the right to lease, sell, or otherwise dispose of the surface of the lands embraced within such lease under existing law or laws hereafter enacted, in so far as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: *Provided further*, That if such reservation is made it shall be so determined before the offering of such lease: *And provided further*, That the said Secretary, during the life of the lease, is authorized to issue such permits for easements herein provided to be reserved.

TRANSFER OF RIGHT-OF-WAY FOR HIGHWAY PURPOSES

Section 16 of the act of November 9, 1921 (42 Stat. 212), reads as follows:

That for the purpose of this act the consent of the United States is hereby given to any railroad or canal company to convey to the highway department of any State any part of its right-of-way or other property in that State acquired by grant from the United States.

The act of May 25, 1920 (41 Stat. 621), reads as follows:

That all railroad companies to which grants for rights-of-way through the public lands have been made by Congress, or their successors in interest or assigns, are hereby authorized to convey to any State, county, or municipality any portion of such right-of-way to be used as a public highway or street: *Provided*, That no such conveyance shall have the effect to diminish the right-of-way of such railroad company to a less width than fifty feet on each side of the center of the main track of the railroad as now established and maintained.

ABANDONED RAILROAD RIGHTS-OF-WAY

The act of March 8, 1922 (42 Stat. 414), to provide for the disposition of abandoned railroad rights-of-way, reads as follows:

That whenever public lands of the United States have been or may be granted to any railroad company for use as a right-of-way for its railroad or as sites for railroad structures of any kind, and use and occupancy of said lands for such purposes has ceased or shall hereafter cease, whether by forfeiture or by abandonment by said railroad company declared or decreed by a court of competent jurisdiction or by act of Congress, then and thereupon all right, title, interest, and estate of the United States in said lands shall, except such part thereof as may be embraced in a public highway legally established within one year after the date of said decree or forfeiture or abandonment, be transferred to and vested in any person, firm, or corporation, assigns, or successors in title and interest to whom or to which title of the United States may have been or may be granted, conveying or purporting to convey the whole of the legal subdivision or subdivisions traversed or occupied by such railroad or railroad structures of any kind as aforesaid, except lands within a municipality the title to which, upon forfeiture or abandonment, as herein provided, shall vest in such municipality, and this by virtue of the patent thereto and without the necessity of any other or further conveyance or assurance of any kind or nature whatsoever: *Provided*, That this act shall not affect conveyances made by any railroad company of portions of its right-of-way if such conveyance be among those which have been or may hereafter and before such forfeiture or abandonment be validated and confirmed by any act of Congress; nor shall this act affect any public highway now on said right-of-way: *Provided further*, That the transfer of such lands shall be subject to and contain reservations in favor of the United States of all oil, gas, and other minerals in the land so transferred and conveyed with the right to prospect for, mine, and remove same.

RESERVATION OF RIGHT-OF-WAY FOR FEDERAL IRRIGATION PURPOSES

Subsection "P" of the act of December 5, 1924 (43 Stat. 672–704), reads as follows:

> That where, in the opinion of the Secretary, a right-of-way or easement of any kind over public land is required in connection with a project the Secretary may reserve the same to the United States by filing in the General Land Office and in the appropriate local land office copies of an instrument giving a description of the right-of-way or easement and notice that the same is reserved to the United States for Federal irrigation purposes under this section, in which event entry for such land and the patent issued therefor shall be subject to the right-of-way or easement so described in such instrument; and reference to each such instrument shall be made in the appropriate tract books and also in the patent.

RIGHTS-OF-WAY WITHIN GRAZING DISTRICTS

Section 6 of the act of June 28, 1934 (48 Stat. 1269), reads, in part, as follows:

> Nothing herein contained shall restrict the acquisition, granting, or use of permits or rights-of-way within grazing districts under existing law; or ingress or egress over the public lands in such districts for all proper and lawful purposes; * * *.

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CODE OF FEDERAL REGULATIONS
TITLE 43 - PUBLIC LANDS: INTERIOR

PART 244 - RIGHTS OF WAY FOR CANALS, DITCHES, RESERVOIRS, WATER PIPE LINES, TELEPHONE AND TELEGRAPH LINES, TRAMROADS, ROADS AND HIGHWAYS, OIL AND GAS PIPE LINES, ETC.

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AUTHORITY: Secs. 244.1 to 244.12, inclusive, issued under R. S. 161, 453, 2478; 5 U.S.C. 22, 43 U.S.C. 2, 1201.

GENERAL REGULATIONS APPLICABLE TO ALL RIGHTS OF WAY PROVIDED FOR IN THIS PART

Section 244.1 Application. No special form of application is required, but it should be filed at the land office for the district in which the land is located, should state the Act invoked and the primary purpose for which the project is to be used. If there is no local land office, the application should be filed with the Commissioner of the General Land Office, Washington, D. C.

244.2 Showing required of corporations. Application by a private corporation must be accompanied by a copy of its charter or articles of incorporation, duly certified by the proper State official of the State where the corporation was organized.

A corporation other than a private corporation should file a copy of the law under which it was formed and due proof of organization under the same.

When the project is in a State other than that in which the corporation was incorporated, it must submit a certificate of the Secretary of State or other proper official of the State in which the project is located, showing compliance with the laws relating to foreign corporations.

244.3 Showing required of individual or association of individuals. Application by an individual under any of the Acts, except the Act of March 3, 1891, and the Acts amendatory or supplemental thereto, must be accompanied by affidavit of citizenship if the applicant is native born, or if a naturalized citizen, by proof of naturalization. Application by an association must be accompanied by a certified copy of the articles of association, if any; if there be none, the fact must be stated over the signature of each member of the association. Each member must furnish evidence of citizenship where it would be required if he were applying individually.

244.4 Evidence which must accompany application. Each application must be accompanied by the following data:

(a) A map prepared on tracing limen, in duplicate, showing the survey of the right-of-way or site, properly located with respect to the public land surveys so that said right-of-way or site may be accurately located on the ground by any competent engineer or land surveyor. The map should comply with the following requirements:

The scale should be 2,000 feet to the inch for canals, ditches, pipe lines, transmission lines, etc., and 1,000 feet to the inch for reservoirs, except where a larger scale is required to represent properly the details of the proposed developments, in which case the scales should be 1,000 feet to the inch and 500 feet to the inch, respectively.

Courses and distances of the center line of the right-of-way or traverse line of the reservoir should be given; the courses referred to the true meridian either by deflection from a line of known bearing or by independent observation, and the distances in feet and decimals thereof. Station numbers with plus distances at deflection points on the traverse line should be shown.

The initial and terminal points of the survey should be accurately connected by course and distance to the nearest corner of the public-land surveys, unless that corner is more than 6 miles distant, in which case the connection will be made to some prominent natural object or permanent monument, which can be readily recognized and recovered. The station number and plus distance to the point of intersection with a line of the public-land surveys should be ascertained and noted, together with the course and distance along the section line to the nearest existing corner, at a sufficient number of points throughout the township to permit accurate platting of the relative position of the right-of-way to the public-land survey.

All subdivisions of the public-land surveys within the limits of the survey should be shown in their entirety, based upon the official subsisting plats with the subdivisions, section, township, and range clearly marked.

The width of the canal, ditch, or lateral at highwater line should be given and if not of uniform width, the location and amount of the change must be definitely shown. In the case of a pipe line, the diameter should be given. For reservoirs, the capacity in acre-feet, the area within the highwater line, the source of the water supply, and the location and height of the dam must be shown.

Each copy of the map should bear upon its face an affidavit of the engineer who makes the survey and the certificate of the applicant. The affidavit and certificate referred to are embodied in forms 1 and 2, which are made a part hereof and which should be modified so as to be appropriate to the Act invoked and the nature of the project.*

Whenever it is found that a public-land survey corner will be destroyed or rendered inaccessible by reason of the proposed development, at least two permanent, marked witness monuments should be established at suitable points preferably on the surveyed lines. A brief description of the witness monuments and the connecting courses and distances to the original corners should be shown.

(b) Evidence of water right, if the project involves the storage, diversion, or conveyance of water. Control and jurisdiction over the appropriation of water is vested in the State authorities. The applicant, therefore, must file evidence, obtained from the proper State official, that he has the right to appropriate the water to be stored, diverted, or conveyed.

244.5 Stipulation and showing required when Oregon and California Railroad and Coos Bay Wagon Road grant lands are involved. All applications for rights-of-way for the construction and operation of any project over Oregon and California Railroad lands, title to which was revested in the United States by the Act of June 9, 1916 (39 Stat. 218), and reconveyed Coos Bay Wagon Road lands, Act of February 26, 1919 (40 Stat. 1179), must be accompanied by a statement showing the amount of merchantable timber, if any, to be cut, removed or destroyed in the construction of the project works, together with a duly executed stipulation agreeing to deposit with the Chief Forester, Oregon and California Revested Lands Administration, in advance of construction, such sum of money as may be determined by him to be the full stumpage value of the timber to be so cut, removed or destroyed. Such applications should also contain an affirmative showing that favorable action thereon will not adversely affect or impair watershed protection, stream-flow regulation; and other conservation features enumerated in the Act of August 28, 1937 (50 Stat. 874), amending the Acts of June 9, 1916, and February 26, 1919.

244.6 Stipulation and bond required when a proposed or existing national forest is involved. Whenever a right-of-way is through or in a national forest, or any area withdrawn for inclusion within a national forest, the applicant must enter into such stipulations and execute such bond as the Forest Service may require for the protection of such existing or proposed national forest. No construction will be allowed in an existing or proposed national forest until an application for right-of-way has been regularly filed and approved by the Secretary of the Interior, or unless permission for such construction work has been specifically given.

244.7 National parks and monuments; effect of Act of March 3, 1921 (41 Stat. 1353; 16 U.S.C. 797). The Act of March 3, 1921, provides, inter alia:

That hereafter no permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power within the limits as now constituted of any national park or national monument, shall be granted or made without specific authority of Congress.

244.8 Action on application; approved permit or easement. When an application is filed, the register will place on the papers and accompanying maps, the serial number, the name of the office, and the date of filing. Notations will be made on the district land office records opposite each unpatented tract and such patented tracts as have been acquired by the United States, affected by the right -of-way or site, giving serial number, date of filing and the name of the applicant. The register will certify on each map over his written signature, that unpatented land is affected. The application will then be transmitted to the General Land Office, together with a status report by the register of the lands affected. If no unpatented land or patented land acquired by the United States is affected, the register will return the map and duplicate to the applicant with notice of that fact.

Upon receipt of the application in the General Land Office, it will be noted on the records of that office and examined as to its legal and factual sufficiency. In the consideration of the application the General Land Office will request the Geological Survey and the Bureau of Reclamation to make reports where the right-of-way or site would involve the diversion or storage of water and will request reports from the Geological Survey in connection with all applications for rights-of-way under section 28 of the Mineral Leasing Act as amended. The General Land Office will in connection with all right-of-way applications affecting lands in withdrawals or reservations, request reports from the Bureau or Department having control and administration of such reservation lands. In case of Indian lands, the General Land Office will call upon the Commissioner of Indian Affairs for report and recommendations, so that the interest of the Indians may be protected and such compensation for the land or right-of-way may be secured as the law and facts may warrant.

Applications which do not conform with the law or regulations or the approval of which would be incompatible with the public or Government interests will be rejected by the General Land Office with the right of appeal. Where the application is complete and in conformity with the law and regulations and all required reports have been obtained, the General Land Office will prepare and submit to the Department with recommendation a draft of permit or easement in triplicate, or the map as the case may be, for approval, except where proposed permits under the Acts of January 21, 1895 (28 Stat. 635; 43 U.S.C. 956) and February 15, 1901 (31 Stat. 790; 43 U.S.C. 959), and easements under the Act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961), involve no lands within national parks, Indian or other reservations of the United States. Permits or easements in such cases shall be issued by the Commissioner of the General Land Office.

Upon approval by the Commissioner or the Department, of the map, permit or easement, the General Land Office will note the fact of such approval on its records and will transmit to the register of the district land office the duplicate copy of the approved map, or in case of a written permit or easement the duplicate original and a copy thereof, together with one copy of all maps of location, whereupon the register will note the approval on the records of his office and will transmit to the permittee or grantee the duplicate original permit or easement, retaining the copy and maps of location for the files of his office. The General Land Office will retain the original approved map, permit or easement for its files and will transmit two copies thereof to the Office of Indian Affairs where Indian lands are affected, and one copy to such other Bureau or Department having control and administration of the lands affected, and will transmit the triplicate original permit or easement to the General Accounting Office, where payment of a rental charge for use of public lands is required.

244.9 Proof of construction; penalty for failure to construct. A period of 5 years from the date of the approval of a permit or easement is usually allowed for construction. Upon completion of construction, proof thereof should be filed in the district land office, consisting of an affidavit of the person in charge of the construction, and the certificate of the permittee or grantee. The affidavit and certificate are embodied in forms 3 and 4, which are made a part hereof and should be modified so as to be appropriate to the Act and to the nature of the project.* If, in constructing, there has been a substantial deviation from the location shown on the original map, the party in interest must file a duly executed relinquishment of the unused portion of the right-of-way or site, accompanied by a map of amended location of the right-of-way or site of the project as actually constructed. The map of amended location must be prepared in accordance with section 244.4 (a). The relinquishment may be prepared so as to become effective upon departmental approval of the amended location.

Upon expiration of the 5-year period allowed for construction, if there has been no construction, grants of easements for rights-of-way or sites are subject to cancellation by the Secretary of the Interior or through court proceedings. A permit may be canceled by the Commissioner of the General Land Office for nonconstruction or abandonment.

244.10 Construction in advance of permit or easement; trespass. Where construction of project works is desired over and through Interior Department lands in advance of approval of a permit or easement for the right-of-way or site, authority for such construction may in the discretion of the Secretary be granted by him upon a satisfactory showing of the necessity therefor, if found not incompatible with the public or Government interest, provided the applicant agrees to make full and prompt compliance with all requirements of the Department as conditions precedent to the approval of the permit or easement, and such construction is done at the applicant's own risk. Application for such authority should be filed with the officer of the Interior Department having supervision of the lands affected, who will submit the record with appropriate report and recommendation to the Secretary.

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* See page

Any occupancy or use of public lands without proper authority will subject the person occupying or using the land to prosecution for trespass.

244.11 Assignment of permit or easement. Proposed assignment of a permit or easement acquired under any of the Acts, except the Act of March 3, 1891, must be submitted in triplicate to the Commissioner of the General Land Office for approval; must be accompanied by the same showing of qualifications as is required of applicants for permit or easement; and must be supported by a stipulation that the assignee agrees to comply with and be bound by the terms and conditions of the permit or easement. No assignment qill be recognized unless and until approved by the Secretary of the Interior, or the Commissioner of the General Land Office, as the case may require.

244.12 Disposition of property on termination of permit or grant. Upon the termination of a permit or grant by expiration or by prior cancellation, in the absence of any agreement to the contrary, if all moneys due the Government thereunder have been paid, the permittee or grantee will be allowed six months or such additional time as may be granted in which to remove from the right-of-way or site all property or improvements of any kind owned or controlled by him; but if not removed within this period, all such property and improvements shall become the property of the United States.

244.12a Appeals. A party aggrieved by any action of the Commissioner of the General Land Office may appeal to the Secretary of the Interior, pursuant to the rules of Practice (43 CFR, Part 221).

AUTHORITY: Sec. 244.13 (a) - (e), issued under 31 Stat. 790, 36 Stat. 1253, 28 Stat. 635, sec. 4, 33 Stat. 628, sec. 28, 49, Stat. 678; 43 U.S.C. 959, 961, 956; 16 U.S.C. 524; 30 U.S.C. 185.

COMPENSATION FOR THE USE AND OCCUPANCY OF PUBLIC LANDS AND RESERVATIONS FOR RIGHTS-OF-WAY OR SITES

244.13 Rental charges - (a) Basic charges. Unless otherwise ordered by the Secretary of the Interior, the charge for use and occupancy of public and reservation lands for rights-of-way for telephone and telegraph lines, water pipe lines, ditches or canals under the Act of February 15, 1901, (31 Stat. 790; 43 U.S.C. 959); telephone and telegraph lines under the Act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961); oil and gas pipe lines under section 28 of the Act of February 25, 1920 (41 Stat. 449), as amended by the Act of August 21, 1935 (49 Stat. 678; 30 U.S.C. 185); and water pipe lines, ditches, flumes, tunnels or canals under section 4, of the Act of February 1, 1905 (33 Stat. 628; 16 U.S.C. 524), shall be at the rate of five dollars ($5) per mile or fraction thereof per annum.

The charge for use and occupancy of public and reservation lands for reservoirs, dams, water plants, well sites, etc., under the Act of February 15, 1901; sites for pumping stations or other structures authorized under section 28 of the Mineral Leasing Act, as amended; and for dams, reservoirs and water plant sites under section 4 of the Act of February 1, 1905, shall be based on the value of the land and the use to which it is to be put, but in no case will the minimum charge be less than five dollars ($5) per annum.

(b) Exceptions. Except as to Indian lands, no charge will be required for the use and occupancy of public or reservation lands under a permit or easement authorizing such use and occupancy exclusively for Municipal purposes, for irrigation, or non-profit cooperative projects. As to Indian lands, the imposition of the rental charges specified in section 244.13 (a) shall be optional and not mandatory.

(c) When payment of rental charge shall be made; penalty for non-payment. Except as to Indian lands, the first payment shall be made with the application and shall be the compensation for a full year computed under the rates specified in section 244.13 (a), but any excess of such payment over the pro rata compensation for the unexpired portion of the calendar year in which the permit or easement is approved will be credited to the permittee or grantee as a part of his payment for the first full caneldar year. Where the application is for a reservoir, dam, water plant or well site, the sum of five dollars ($5), the minimum charge specified for such cases, shall be deposited with the application.

The rental charge shall be paid annually on or before the first day of January. Payment should be made to the Register of the district land office in cash or by check or money order made payable to the Treasurer of the United States. If the permittee or grantee shall fail to pay the rental charge, and such default shall continue for thirty days after the first day of January, the permit may be canceled, or in the case of the grant, the same will be subject to forfeiture. After default has occurred, no structures, buildings, or other equipment may be removed from the right-of-way except upon written permission first obtained from the Secretary of the Interior.

(d) Revision of rates. At any time not less than five years after the approval of the permit or grant of easement, or after the last revision of rates per year thereunder, the Secretary of the Interior may review such rates and impose such new rates per year as he may deem reasonable and proper.

(e) Disposition of moneys received for rentals. All moneys received as rentals for permits or easements shall be deposited for credit to the account of the Treasurer of the United States. The moneys shall not be applied by the register until notice has been received of the approval of the permit or easement for which the rental was paid. Rentals for public lands, except for rights-of-way and occupancy authorized by section 28 of the Mineral Leasing Act, shall be applied as "Rights-of-Way on and Occupancy of Public Lands." Rentals for oil and gas pipe lines and sites for pumping stations or other structures authorized by section 28 of the Mineral Leasing Act, as amended, shall be applied as "Receipts under Mineral Leasing Act of February 25, 1920." Rentals for reservation lands shall be applied to the credit of the related receipt account or fund.

AUTHORITY: Secs. 244.14 to 244.21, inclusive, issued under R. S. 161, 453, 2478; 5 U.S.C. 22, 43 U.S.C. 2, 1201.

RIGHTS OF WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR CANALS, DITCHES, AND RESERVOIRS

244.14 Statutory authority. Section 18 of the Act of March 3, 1891 (26 Stat. 1101), as amended by the Acts of March 4, 1917 (39 Stat. 1197), and May 28, 1926 (44 Stat. 668; 43 U.S.C. 946) authorizes the Secretary of the Interior to grant rights-of-way for irrigation and drainage purposes to the extent of the ground occupied by the water of any reservoirs and any canals and laterals and 50 feet on each side of the marginal limits thereof and such additional right-of-way as may be deemed necessary for the proper operation and maintenance of said reservoirs, canals, and laterals.

Section 19 of the Act of March 3, 1891 (26 Stat. 1102; 43 U.S.C. 947), provides for the filing of maps by applicants desiring to secure the benefits of said Act; that upon the approval thereof by the Secretary of the Interior, the same shall be noted upon the records and thereafter all lands affected by such right-of-way shall be disposed of subject to such right-of-way.

Section 20 of the Act of March 3, 1891 (26 Stat. 1102; 43 U.S.C. 948), provides that this Act shall apply to all canals, ditches, or reservoirs heretofore or hereafter constructed, whether by corporations, individuals, or association of individuals, on the filing of the certificates and maps as therein provided; that if any section of the project is not completed within 5 years after location, the right-of-way granted shall be forfeited as to the uncompleted canal, ditch, or reservoir, to the extent that the same is not completed at the date of forfeiture.

Section 21 of the Act of March 3, 1891 (26 Stat. 1102; 43 U.S.C. 949), provides that nothing in this Act shall authorize the occupancy of such right-of-way except for the purpose for which the grant is made, and then only so far as may be necessary for the construction, maintenance, and care of the project.

244.15 Pipe lines, flumes and conduits included; use of materials on adjacent lands. The Act of March 3, 1891, as amended, is applicable to rights-of-way for pipe lines, flumes, or other conduits, although they are not specifically mentioned in the Act, if water is conveyed primarily for irrigation or drainage purposes.

Material on adjacent lands: The word "adjacent", as used in section 18 pf the Act, in connection with the right to take material for construction from the public lands, must be construed according to the conditions of each case (28 L.D. 439). The right extends only to construction, and no public timber or material may be taken or used for repair or improvements (14 L.D. 566). These decisions were rendered under the Railroad Right-of-way Act of March 3, 1875 (17 Stat. 482; 43 U.S.C. 934) and are applied to the Act of March 3, 1891, since the wording with respect to the use of material is the same.

244.16 Use subsidiary to main purpose of irrigation. Section 2 of the Act of May 11, 1898 '30 Stat. 404; 43 U.S.C. 951), authorizes the use of rights-of-way granted under the Act of March 3, 1891, for purposes subsidiary to the main purpose of irrigation.

244.17 Caretaker's building sites. The Act of March 1, 1921 (41 Stat. 1194; 43 U.S.C. 950), authorizes the Secretary of the Interior, except as to lands within national forests, to grant permits or easements for not to exceed 5 acres of ground adjoining the right-of-way at each of the locations, to be determined by the Secretary of the Interior, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the case and management of the works provided for by the Act of March 3, 1891, as amended.

244.18 Showing required for additional right-of-way. The Act of May 28, 1926 (44 Stat. 668; 43 U.S.C. 946), amended section 18 of the Act of March 3, 1891, so as to authorize, if needed, right-of-way additional to the 50 feet allowed by the section for operation and maintenance of reservoirs, etc. To obtain such additional right-o-fway, explanatory showing must accompany the application. This should consist of an affidavit by the applicant's engineer or surveyor setting forth succinctly the extent of the additional right-of-way required and the necessity therefor. The additional right-of-way should also be shown graphically by lateral limit lines on the map filed in connection with the application. If additional right-of-way is wanted only for portions or sections of the reservoirs, canals, ditches, or laterals, the termini thereof should be fixed by engineer's survey stations in addition to the lateral limit lines.

244.19 Nature of grant; settlement on right-of-way land. The Act of March 3, 1891, does not convey an estate in fee in the lands used for the right-of-way. The right granted is in the nature of an easement, a right of use only, the fee title remaining in the United States. All persons settling on a tract of public land, to part of which right-of-way has attached for a canal, ditch, or reservoir, etc., take the land subject to such right-of-way, and at the total area of the subdivision entered, there being no authority to make deductions in such cases. If a settler has a valid claim to land, existing at the date of filing of the map of definite location, his right is superiors, and he is entitled to such reasonable measure of damages for right-of-way as may be determined by agreement or by the courts, the question being one that does not fall within the jurisdiction of this Department.

244.20 Procedure when unsurveyed land is involved. Maps, filed under the said Act, as amended, showing canals, ditches, reservoirs, etc., lying partly upon unsurveyed land can be approved if the application and accompanying maps conform to these regulations, but the approval will only relate to that portion of the right-of-way traversing the surveyed land.

Maps showing canals, ditches, reservoirs, etc., lying wholly on unsurveyed lands may be received and placed on file in the General Land Office and the local land office of the district in which the land is located, for general information. The date of filing will be noted thereon; but the maps will not be submitted to nor approved by the Secretary of the Interior, as the Act makes no provision for the approval of any but maps showing locations on surveyed lands. The filing of such maps will not dispense with the filing of maps after the survey of the lands and within the time specified in the Act, and if the maps are regular in all respects they will receive the Secretary's approval.

244.21 Segregated reservoir sites. The Act of February 26, 1897 (29 Stat. 599; 43 U.S.C. 664), permits the approval of applications under the Act of March 3, 1891, for rights-of-way upon reservoir sites reserved under authority of the Act of October 2, 1883 (25 Stat. 526; 43 U.S.C. 662), and August 30, 1890 (26 Stat. 371, 391; 43 U.S.C. 662).

AUTHORITY: Secs. 244.22 to 244.30, inclusive, issued under 31 Stat. 790; 43 U.S.C. 959.

RIGHTS OF WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES, PIPE LINES, CANALS, DITCHES, WATER PLANTS, ETC.

244.22 Statutory authority. The Act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959), authorizes the Secretary of the Interior, under such regulations as he may fix, to permit the use of rights-of-way through public lands and certain reservations of the United States, for telephone and telegraph lines, pipe lines, canals, ditches, water plants, etc., to the extent of the ground occupied by such canals, ditches, or water plants, or other works permitted thereunder, and not to exceed 50 feet on each side of the marginal limits thereof, or not to exceed 50 feet on each side of the center line of such pipe lines, telephone and telegraph lines, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted under said Act.

244.23 Applications which may be submitted under the Act of February 15, 1901. All applications for permission to use rights-of-way for purposes specified in the Act of February 15, 1901, must be submitted thereunder, except; (a) Where it is sought to acquire a right-of-way for the main purpose of irrigation, as contemplated by sections 18 to 21 of the Act of March 3, 1891 (26 Stat. 1101, 1102; 43 U.S.C. secs. 946-949), and section 2 of the Act of May 11, 1898, the application must be submitted under said Acts, in accordance with the applicable regulations in this part; (b) Applications for rights-of-way for telephone and telegraph lines may be submitted under the Act of March 4, 1911, in accordance with the applicable regulations contained in this part. For regulations governing the development and transmission of electric power issued under the Act of February 15, 1901, see Part 245.

An application may be filed under the Act of February 15, 1901, for a stock-watering reservoir site. An application under the Act for a "water plant" site or for a pipe line right-of-way may include an area for a well to supply the water; but if, because the lands affected are within a grazing district established under the grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315-315n, 1171), as amended, or for any other reason, the granting of a permit for a stock-watering reservoir site, or for a water plant site or for a pipe line right-of-way would adversely affect the interests of the Government, the applications therefor will not be allowed. If the lands affected are within a grazing district, an application for a stock-watering reservoir or water well site should be filed under section 4 of the said Act of June 28, 1934, with the regional grazier, if the applicant is qualified under the section; and if the reservoir or well is necessary to the care and management of the permitted livestock and primarily for that purpose. Regulations under the said section 4 are contained in 43 CFR 501.14, (a) - (f).

244.24 No rights acquired prior to filing and approval of application. Application under the Act of February 15, 1901, for permission to use the desired right-of-way through the public lands and parks designated in the Act must be filed and approved before any rights can be claimed thereunder.

244.25 Nature of permit; final disposal of land subject to right-of-way. It is to be specially noted that the Act of February 15, 1901, does not make a grant in the nature of an easement but authorizes a mere permit in the nature of a license, which permit may be canceled by the Commissioner of the General Land Office, at any time subject to the right of appeal. Further, it gives no right whatever, to take from public lands, reservations, or parks adjacent to the right-of-way, any materials, earth, or stone for construction or other purposes. The final disposal by the United States of any tract traversed by a right-of-way permitted under this Act shall not be considered to be a revocation of such permission in whole or in part but such final disposal shall be deemed and taken to be subject to such right-of-way until such permission shall have been specifically revoked in accordance with the provisions of said Act.

244.26 When application should be filed with Department of Agriculture. Section 1 of the Act of February 1, 1905 (33 Stat. 628; 16 U.S.C. 472), vested jurisdiction in the Department of Agriculture to pass upon all applications under any law of the United States providing for the granting of a permission to occupy and use lands in a national forest, provided this occupation or use is temporary, and will in no wise affect the fee or cloud the title of the United States should the reserve be discontinued.

Therefore, when it is desired to obtain permission under the Act of February 15, 1901, to use a right-of-way over public lands wholly within a national forest, an application should be prepared in accordance with the instructions issued by the Department of Agriculture, and should be filed with the officer in charge of such national forest.

In case the applicant desires rights and privileges upon public lands partly within and partly without a national forest, separate application must be prepared, and the one affecting lands within the national forest filed with the forest officer and the other filed in the district land office.

244.27 Buildings to be platted on map in main drawing and in separate drawing. When application is made for right-of-way for water plants, the location and extent of ground proposed to be occupied by buildings or other structures necessary to be used in connection therewith must be clearly designated on the map and described on Forms 5 and 6, which are made a part hereof,* by reference to course and distance from a corner of the public survey. In addition to being shown in connection with the main drawing, the buildings or other structures must be platted on the map in a separate drawing on a scale sufficiently large to show clearly their dimensions and relative positions. When two or more such proposed structures are to be located near each other, it will be sufficient to give the reference to a corner of the public survey for one of them, provided all the others are connected therewith by course and distance shown on the map. The applicant must also file an affidavit setting forth the dimensions and proposed use of each of the structures, and must show definitely that each one is necessary for a proper use of the right-of-way for the purpose contemplated in the Act.

244.28 Procedure when unsurveyed land is involved. Permission may be given under this Act (Febraury 15, 1901), for rights-of-way upon unsurveyed lands, maps to be prepared in accordance with the requirements of section 244.4 (a).

244.29 Showing required when national park is involved; bond and stipulations. Whenever a right-of-way is through any of the national parks designated in the Act, for purposes other than those except by the Act of March 3, 1921 (section 244.7), the applicant must show to the satisfaction of the Department that the location and use of the right-of-way for the purpose contemplated will not interfere with the uses and purposes for which the park was originally dedicated, and will not result in damage or injury to the natural conditions of property or scenery existing therein. The applicant must also file such stipulations and bond as may be required by the Director of the National Park Service.

Whenever right-of-way within a park is desired for operations in connection with mining, quarrying, cutting timber or manufacturing lumber, a satisfactory showing must be made of the applicant's right to engage in such operations within the park.

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244.30 Procedure when Indian reservation is involved. Applications for right-of-way, under the Act of February 15, 1901, all of which are located upon land within an Indian reservation, and applications for right-of-way affecting lands within and without Indian reservations must be filed in the local land office for forwarding to the Commissioner of the General Land Office. Attention is directed to the provisions of section 3 of the Act of March 3, 1901 (31 Stat. 1083; 25 U.S.C. 319), which authorizes the granting of permanent rights-of-way, in the nature of easements, for telegraph and telephone purposes only, through Indian reservations and other Indian lands, upon payment of proper compensation for the benefit of the Indians interested therein. The provisions of the Act of March 3, 1901, and the nature and character of the rights authorized to be secured thereunder differ materially from the provisions of the Act on which sections 244.22 - 244.30 are based and the rights authorized to be conferred thereunder. Applicants desiring to secure permanent rights-of-way through Indian reservations or other Indian lands for telegraph and telephone purposes will, therefore, be required to submit their applications under the Act of March 3, 1901 in accordance with the regulations issued thereunder. (The regulations under said Act are contained in 25 CFR Part 256).

AUTHORITY: Secs. 244.31 to 244.33, inclusive; issued under 36 Stat. 1253; 43 U.S.C. 961.

RIGHTS-OF-WAY OVER PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES

244.31 Statutory authority. The Act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961), authorizes the head of the department having jurisdiction over the lands, under such regulations as may be fixed by him to grant an easement for rights-of-way for a period not exceeding 50 years, over and across public lands and reservations of the United States, for telephone and telegraph lines to the extent of 20 feet on each side of the center line of such telephone and telegraph lines to any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted under said Act.

244.32 Jurisdiction over land. For the purpose of the Act of March 4, 1911, national parks, Indian reservations, grazing districts, wildlife refuges, and reservations for water power sites, irrigation, classification of lands, or other purposes, created under the withdrawal Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141-143), are considered to be under the jurisdiction of the Department of the Interior, military reservations under the jurisdiction of the War Department; and reservations created for the special occupancy, use, or control of other departments under the jurisdiction of such departments, respectively. The Attorney General on February 3, 1912, adviced the Secretaries of the Interior and Agriculture that, for this purpose, national forests are under the jurisdiction of the Department of Agriculture (29 Op. Atty. Gen. 303).

244.33 Nature of grant. The Act of March 4, 1911 which authorizes the granting of easements for telephone and telegraph lines for stated periods not to exceed 50 years, follows, as closely as is possible in the accomplishment of its purposes, the language of the Act of February 15, 1901 (31 Stat. 790; 43 U.S.C. 959), which authorizes mere revocable permits or licenses not only for such lines but for other purposes.

AUTHORITY: Secs. 244.34 to 244.38, inclusive, issued under Sec. 4, 33 Stat. 628; 16 U.S.C. 524.

RIGHTS-OF-WAY THROUGH NATIONAL FORESTS FOR DAMS, RESERVOIRS, WATER PLANTS, DITCHES, FLUMES, PIPES, TUNNELS, AND CANALS FOR MUNICIPAL OR MINING PURPOSES

244.34 Statutory authority. Section 4 of the Act of February 1, 1905 (33 Stat. 628; 16 U.S.C. 524), grants rights-of-way through national forests to citizens and corporations of the United States, for the construction and maintenance of dams, reservoirs, water plants, pipes, tunnels, and canals, for municipal or mining purposes, during the period of the beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

244.35 When construction may commence. No construction will be allowed in national forests until an application for right-of-way has been regularly filed in accordance with sections 244.1-244.13, 244.34-244.38 and has been approved by the Secretary of the Interior, or unless permission has been specifically given.

244.36 Nature of grant; no right to material. The right granted under section 4 of the Act of February 1, 1905, is not in the nature of a grant of land, but an easement, giving the right of possession and use of the land for the purpose contemplated by the Act, during the period of beneficial use only. No right, whatever, is given to take any material, earth, or stone for construction or other purposes, nor is any right given to use any land outside of what is actually necessary for the construction and maintenance of the works.

244.37 Water plant structures. When application is made for right-of-way for water plants, section 244.27 should be followed, with appropriate changes in the prescribed forms.

244.38 Procedure when unsurveyed land is involved. Maps showing reservoirs, canals, water plants, etc., wholly upon unsurveyed lands, will be received and acted upon in the manner prescribed for surveyed lands.

AUTHORITY: Secs. 244.39 to 244.41, inclusive, issued under 28 Stat. 635; 43 U.S.C. 956.

RIGHTS-OF-WAY OVER PUBLIC LANDS FOR TRAMROADS, TRAMWAYS, LOGGING, AND OTHER ROADS

244.39 Statutory authority. The Act of January 21, 1895 (28 Stat. 635; 43 U.S.C. 956), authorizes the Secretary of the Interior under such regulations as may be fixed by him to permit the use of rights-of-way over the public lands of the United States, for tramroads to the extent of 50 feet on each side of the center line of the tramroad, by any citizen or association of citizens of the United States, engaged in the business of mining, or quarrying or of cutting timber and manufacturing lumber. The Act does not authorize the use of rights-of-way within the limits of any park, national forest, military reservation or Indian reservation.

244.40 Definition of "tramroads." This Act has been superseded by other Acts except as to tramroads. "Tramroads" is considered as including "tramways", narrow-gage railroads, and wagon or motor-truck roads to be used in connection with mining, quarrying, logging, and the manufacturing of lumber.

244.41 Nature of permit. Permission to use rights-of-way for tramroads over public lands, when granted, only confers a right in the nature of a license and is subject to all the conditions and limitations hereinbefore stated in section 244.25.

CROSS REFERENCE: For temporary logging road permits over revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands and intermingled public lands in Oregon, see 43 CFR 115.114-115.127.

AUTHORITY: Secs. 244.42 to 244.44, inclusive, issued under R. S. 161, 453, 2478; 5 U.S.C. 22; 43 U.S.C. 2, 1201.

RIGHTS-OF-WAY OVER PUBLIC LANDS AND RESERVATIONS FOR HIGHWAYS AND ROAD BUILDING MATERIAL SITES

244.42 Statutory authority. Section 17 of the Federal Aid Highway Act of November 9, 1921 (42 Stat. 216; 23 U.S.C. 18), authorizes the transfer of public lands and reservations of the United States to the State highway departments on determination by the Secretary of Agriculture that such lands are necessary for the right-of-way for any highway or forest road or as a source of materials for the construction and maintenance of such roads and highways, and after his request for such transfer with a map showing the portions of such lands which it is desired to appropriate.

This status provides that if within a period of 4 months after such filing the Secretary of the Interior shall not have certified to the Secretary of Agriculture that the proposed transfer of such lands is contrary to the public interest or inconsistent with the object of the Government, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the protection of the Government's interest, then such land or materials may be appropriated and transferred to the State highway departments for such purposes. If and when the need for any such land or materials shall no longer exist, notice of that fact must be given by the State highway department to the Secretary of the Agriculture, and such lands or materials will immediately revert to the control of the Department of the Interior.

By virtue of Reorganization Plan No. 1, Part 3 (53 Stat. 1426), the Bureau of Public Roads, was transferred to the Federal Works Agency, to be administered as the Public Roads Administration, and all functions of the Secretary of Agriculture relating to the administration of the Bureau of Public Roads were transferred to the Federal Works Administrator.

244.43 Filing of application. Where a highway is to be constructed or improved under the provisions of the Act of November 9, 1921, and the amendment or supplements thereto, the State highway departments may take advantage of the provisions of section 17 of said Act by filing application and maps with the register of the land office for the district in which the lands affected are situated, in the manner prescribed by sections 244.1, 244.4 (a). Application for rights-of-way under section 17 of said Act should be filed by the State highway department of the particular State and not by any political subdivision of the State. No application will be received by the register under said section 17 for rights-of-ways for highways or material sites affecting lands entirely within a national forest or an Indian reservation.

244.44 Action on application. Upon receipt of an application in the district land office, filed under section 17, of the Act of November 9, 1921, action thereon will be taken in accordance with section 244.8. If unpatented lands or patented lands acquired by the United States are affected, the register will forward the application and map, or set of maps, to the General Land Office and will return the duplicate map, or maps to the State highway department which will forward them to the Public Roads Administration for determination that the lands are necessary for right-of-way for the highway or road-building material site purposes, as required by the Act.

AUTHORITY: Secs. 244.45 to 244.47, inclusive, issued under R. S. 161, 453, 2478; 5 U.S.C. 22, 43 U.S.C. 2, 1201.

RIGHTS-OF-WAY FOR ROADS AND HIGHWAYS OVER PUBLIC LANDS

244.45 Statutory authority. R. S. 2477 (43 U.S.C. 932), grants rights-of-way for the construction of highways over public lands, not reserved for public uses.

244.46 When grant becomes effective. Grants of rights-of-way referred to in the preceding section becomes effective upon the construction or establishment of highways, in accordance with the State Laws, over public lands, not reserved for public uses. No application should be filed under R. S. 2477, as no action on the part of the Government is necessary.

244.47 Procedure when reserved land is involved. When right-of-way is desired for the construction of a highway under R. S. 2477, over public land reserved for public uses, and such reserved land is under the jurisdiction of the Department of the Interior, an application should be made to the Commissioner of the General Land Office, through the land office for the district in which the land is situated, for consideration of the revocation or modification of the reserve so as to permit the operation of the statute and construction or establishment of the highway. Such application should be accompanied by a map, drawn on tracing linen, with two print copies thereof, showing the location of the proposed highway with relation to the smallest legal subdivisions of the lands affected. The register in such case will not assign a serial number to the application but will transmit it together with the map and print copies to the General Land Office by special letter. Unless and until the reservation shall have been revoked or modified so as to permit the construction of the highway, subject to such terms and conditions, if any, as may be deemed reasonable and necessary for the adequate protection and utilization of the reserve, no rights to establish or construct the highway will be acquired by reason of the filing of such application.

AUTHORITY: Secs. 244.48 to 244.52, inclusive, issued under sec. 28, 49 Stat. 678; 30 U.S.C. 185.

RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR OIL AND NATURAL GAS PIPE LINES AND PUMPING PLANT SITES

244.48 Statutory authority. Section 28 of the Act of February 25, 1920 (41 Stat. 449), as amended by the Act of August 21, 1935 (49 Stat. 678; 30 U.S.C. 185), authorizes the Secretary of the Interior to grant rights-of-way through the public lands, including the forest reserves of the United States, for pipe line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of the Act (41 Stat. 437; 30 U.S.C. 22, 48, 181) to the extent of the ground occupied by the said pipe line and 25 feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by him, and upon the express conditions, that such pipe lines shall be constructed, operated, and maintained as a common carrier and that the grantee shall accept, convey, transport, or purchase without discrimination oil or natural gas produced from Government lands in the vicinity of the pipe line in such proportionate amount as the Secretary of the Interior may, after a full hearing, with due notice thereof to the interested parties, and a proper finding of facts, determine to be reasonable.

Section 29 of said Act provides, in part:

> That any permit, lease, occupation, or use permitted under this Act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights-of-way,

including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this Act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees or permittees, and for other public purposes.

244.49 Who may file application. Application may be filed by citizens of the United States, or association of such persons, any corporation organized under the laws of the United States, or of any State or Territory, and municipalities.

244.50 Use of pipe line. The applicant shall state in the application (preferably in the certificate written on the face of the map), the specific use, within the purview of the Act, to which the pipe line is to be put, and any approval of the right-of-way shall be limited to such specific use, unless otherwise stated in the approval. No change in the use of the pipe lines from that authorized by the approval of the right-of-way shall be allowed except with approval in writing first obtained from the Secretary of the Interior, and upon such terms and conditions as the Secretary may prescribe as a prerequisite to the approval of the change of use.

244.51 Approval of right-of-way. The approval of such rights-of-way shall be subject to the express conditions that the use of the pipe line for the transportation of oil, gas or other similar natural products, shall be limited to such products in conformity with State and Federal laws, including laws prohibiting waste.

244.52 Pumping plant site. A site for a pumping station or other structures reasonably necessary to the operation of a pipe line on a right-of-way approved under section 28 of the Act of February 25, 1920, or as amended by the Act of August 21, 1935, may be granted under the section (Op. Atty. Gen. 480).

REGULATIONS SUPERSEDED

Sections 244.1 to 244.52, inclusive, supersede sections 244.1 to 244.17, inclusive, and sections 244.31 to 244.61, inclusive, of Title 43 of the Code of Federal Regulations (Circ. 1237a, May 23, 1938; Circ. 1459, August 7, 1939).

Fred W. Johnson,

Commissioner, General Land Office.

Approved: May 31, 1943

Oscar L. Chapman,

Assistant Secretary.

1

FORMS

FORMS TO BE PLACED ON MAPS

(Form 1)

State of ______________________,
County of ______________________, ss:

______________________, being duly sworn, says he is the chief engineer of (or the person employed to make the survey by) the ______________________ company; that the survey of said company's (canals, ditches, and reservoirs), as described and shown on this map (being a total length of canals, ditches, and laterals of ____ miles, and a total area of reservoirs at __________ acres), was made by him (or under his direction) as chief engineer of the company (or as surveyor employed by the company) and under authority, commenced on the ______ day of __________ 19______, and ending on the ______ day of __________ 19____ (and that the survey of the said canals, ditches, laterals, and reservoirs) accurately represents (a proper grade line for the flow of water, and accurately represents a level line, which is the proposed water line of the said reservoir), and that such survey is accurately represented upon this map. (And no lake or lake bed, stream or stream bed, is used for the said (canals, ditches, laterals, and reservoirs) except as shown on this map.)

______________________,

______________________.

Sworn and subscribed to before me this ____ day of __________ 19__________.

______________________,
Notary Public

(Form 2)

I, ______________________, do hereby certify that I am president of the ______________________ company; that ______________________, who subscribed the accompanying affidavit, is the chief engineer of (or was employed to make the survey by) the said company; that the survey of the said (canals, ditches, laterals, and reservoirs), as accurately represented on this map, was made under authority of the company; that the company is duly authorized by its articles of incorporation to construct the said (canals, ditches, laterals, and reservoirs) upon the location shown upon this map; that the said (canals, ditches, laterals, and reservoirs), as represented on this map, was adopted by the company, by resolution of its board of directors, on the ______ day of __________ 19______, as the definite location of the said (canals, ditches, laterals, and reservoirs) and that no lake or lake bed, stream or stream bed is used for the said (canals, ditches, laterals, and reservoirs) except as shown on this map; and that the map has been prepared to be filed for the approval of the Secretary of the Interior, in order that the company may obtain the benefits of (sections 18 to 21, inclusive, of the Act of

Congress approved March 3, 1891, entitled "An Act to repeal timber-culture laws, and for other purposes," and section 2 of the Act approved May 11, 1898); and I further certify that the right-of-way herein described is desired for the main purpose of irrigation.

Attest:

President of the __________ Company.

(SEAL OF THE COMPANY) __________, Secretary.

1 Where necessary, these forms should be modified so as to be appropriate to the applicant (corporation, association, or individual, to the act invoked, and to the nature of the project.

FORM FOR PROOF OF CONSTRUCTION

(Form 3)

State of __________,

County of __________, ss:

__________, being duly sworn, says that he is the chief engineer of (or was employed to supervise or check the construction of the canals, ditches, laterals, and reservoirs of) the __________ company; that said (canals, ditches, laterals, and reservoirs) have been constructed under his supervision; that construction was commenced on the _____ day of __________ 19 ____, and completed on the ____ day of _____ 19 ____; that the constructed (canals, ditches, laterals, and reservoirs) as aforesaid, conform to the map which received the approval of the Secretary of the Interior on the _____ day of __________ 19____.

____________________,

____________________.

Sworn and subscribed to before me this __________ day of ________ 19____.

____________________.

- - - - - - - - - - -

(Form 4)

I, ____________________, do certify that I am the president of the _______________ company; that the (canals, ditches, laterals, and reservoirs) were actually constructed as set forth in the accompanying affidavit of ____________________, chief engineer (or the person employed by the company in the premises), and on the exact location represented on the map approved by the Secretary of the Interior on the ____ day of __________ 19 ____; and that the company has in all things complied with the requirements of the Act of Congress. (March 3, 1891, granting rights-of-way for canals, ditches, and reservoirs through the public lands of the United States.)

(SEAL OF COMPANY) ______________________________

President of the ____________________ Company

______________________________,
Secretary.

- - - - - - -

FORMS FOR WATER PLANTS ONLY

(Act of February 15, 1901, or February 1, 1905)

(Form 5)

State of ________________,
County ____________________, ss:

______________________, being duly sworn, says he is the chief engineed of (or the person employed by) the ________________________ company, under whose supervision the survey was made of the grounds selected by the company for structures for a water plant under the Act of Congress approved February 15, 1901, said grounds (here describe as required by Section 244.27); that the accompanying drawing correctly represents the locations of the said structures; and that in his belief the structures represented are actually and to their entire extent required for the necessary uses contemplated by the said Act of February 15, 1901 (31 Stat. 790, (or February 1, 1905)).

______________________________,
Chief Engineer

Subscribed and sworn to before me this _____day of ________________19____.

__________________________,
Notary Public.

(SEAL)

- - - - - - -

(Form 6)

I, ______________________ do hereby certify that I am the President of the ______________________ company; that the survey of the structures represented on the accompanying drawing was made under authority and by direction of the company, and under the supervision of ______________ ______________________________, its chief engineer (or the person employed in the premises), whose affidavit precedes this certificate; that the survey as represented on the accompanying drawing actually represents the structures required (here describe as required by Section 244.27) for water plant, under the Act of Congress approved February 15, 1901 (or Act of February 1, 1905), and that the company, by resolution of its board of directors, passed on the ______ day of ____________ 19____, directed the proper officers to present the said drawing to the Commissioner of the General Land office in order that the company may obtain the use of the grounds required for said structures, under the provisions of said Act approved February 15, 1901 (31 Stat. 790, or (February 1, 1905)).

(SEAL OF THE COMPANY)

______________________________,
President of the ______________ Co.

Attest:

Reserve Stock

Office Copy

51970

Obsolete
See Circ 1309

Circular No. 1239.

(Amending Circular No. 953.)

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

March 6, 1931.

Chiefs of Field Divisions.

Gentlemen:

Since the issuance of Circular No. 953 of July 19, 1924, developments have arisen which make it necessary to amend the regulations contained therein, in order to adequately protect the Government's interests. You will, therefore, hereafter observe the following instructions and apply the measures of damage prescribed below in coal trespass cases:

The mining of coal, either under a pending application for license, lease or permit, or without such pending application, is in trespass. However, where a permittee applies for a lease the mining of coal by him prior to the issuance of the lease does not constitute a trespass nor does the mining of coal by the surface owner for his own domestic use constitute a trespass.

Settlement for all coal mined in trespass will be required in accordance with the following measures of damage:

1. INNOCENT TRESPASS. The value of coal in place, before severance. United States vs. Homestake Mining Company (117 Fed. 481). In no event should less than twenty-five cents per ton be demanded in settlement of a trespass.

2. WILLFUL TRESPASS. Full value of property at time of conversion, without deduction for the labor bestowed or expense incurred in removing and preparing it for market. United States vs. Ute Coal and Coke Company (158 Fed. 20).

Where coal is being mined in trespass without a pending application, steps should be taken to put immediate stop to such mining and to collect damages for the coal.

Where coal is being mined in trespass but under a pending application for license, lease or permit, the trespasser should be advised that he is mining in trespass and at his own risk.

(over)

If, however, it is found that the mining operations are being conducted in violation of the coal mining regulations of the Department, or the applicant fails to submit payment for the coal in accordance with the proper measure of damage, the Chief of Field Division having jurisdiction in the matter will take such action as may be necessary to put a stop to such mining operations.

Very respectfully,

C. C. MOORE,

Commissioner.

I concur:

W. C. MENDENHALL,

Acting Director, Geological Survey.

Approved: March 6, 1931.

JOHN H. EDWARDS,

Assistant Secretary.

5247 52392

RECEIVED
U. S. LAND OFFICE
BILLINGS, MONTANA
Date APR 11 1931
Hour

Circular No. 1242.

POTASH REGULATIONS AMENDED

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UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

March 25, 1931.

1242.

Registers,

United States Land Offices.

Gentlemen:

On March 23, 1931, the Acting Secretary of the Interior amended Circular No. 1120 of April 20, 1927 (52 L. D. 84), concerning potash mining leases and prospecting permits, under the act of February 7, 1927 (44 Stat. 1057).

Section 19 of Circular No. 1120 is amended as follows:

> 19. Limitation on Holdings.--The act provides that the general provisions of the act of February 25, 1920, shall be applicable. The Secretary of the Interior is given authority to prescribe necessary and proper rules and regulations, and in view of the provisions of amended section 27 of the latter act on holdings of permits and leases of the minerals enumerated therein no person, association, or corporation will be granted either directly or indirectly or by approval of assignments, permits or / and leases for more than 2,560 acres or which will when added to the area already held exceed in the aggregate 2,560 acres in the same potassium prospecting or leasing field, except in cases where, because of the character of the deposits, the capital necessary for their proper development, or other conditions, a larger area is found necessary for economic mining operations and to secure the best development thereof, and the interests of the United States will be subserved thereby.

Very respectfully,

C. C. MOORE,

Commissioner.

Circ. 1242

Circular No. 1243.

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

1308889 "K" MMM

March 27, 1931.

: Regulations for the Sale
: of Lands in Townsites of
: Anita, Ballantine, and
: Huntley, within the
: Huntley Irrigation Project.

Register,
Billings, Montana.

Sir:

On September 19, 1930, the Department, upon recommendation of the Commissioner of Reclamation, approved regulations authorizing and directing that a sale of certain unplatted lands in the townsites of Anita, Ballantine, and Huntley, within the Huntley Irrigation Project, Montana, be held. It is therefore directed that in accordance with said regulations and pursuant to the act of March 2, 1929 (45 Stat. 1522), as amended by the act of February 14, 1931 (Public No. 655), the tracts of land hereinafter described included in the attached list shall be offered for sale at public auction to the highest bidder at not less than the appraised value, at 11 o'clock a. m., May 9, 1931, at your office in Billings, Montana. You have been designated as Superintendent and Auctioneer to conduct the sale.

Full payment for the lands may be made in cash on the date of the sale or one-fifth in cash and the balance in four equal annual installments with interest at 6 per cent per annum on the deferred payments.

As Superintendent of the sale you are authorized to reject any and all bids for tracts of land; to suspend, adjourn, or postpone the sale of any tract or tracts to such time and place as you may deem proper; to close the sale at the conclusion of the offerings; and to reappraise any tract or tracts remaining unsold at the close of the sale. The unsold or forfeited tracts will then be subject to private sale at your office at the appraised value for cash, or two-fifths in cash and the balance in three equal annual installments with interest at 6 per cent on the deferred payments.

All persons are warned against forming any combination or agreement which would prevent any tract from selling advantageously, or which will in any way hinder or embarrass the sale, and all persons so offending will be prosecuted under section 59 of the Criminal Code of the United States.

Mimeographed copies hereof will be furnished as soon as they are ready.

The lands to be offered for sale and the appraised prices are as follows:

Anita Townsite: Sec, 8, T. 2 N., R. 30 E.

Description	Area	Appraised Value
Sec. 8 N½ NE¼	80 acres subject to railroad right of way	$880.00
S½ NE¼	80 " " " " " " "	640.00
S½ NW¼	80 " " " " " " "	880.00

Ballantine Townsite: Sec. 5, T. 2 N., R. 29 E.

Description	Area	Appraised Value
Sec. 5, S½ SE¼ and S½N½SE¼	120 acres subject to railroad and canal rights of way	$720.00
Sec. 5, Lot 5	24.55 acres	491.00

Huntley Townsite: Secs. 24 and 25, T. 2 N., R. 27 E.
and Secs. 19 and 30, T. 2 N., R. 28 E.

Description	Area	Appraised Value
Sec. 25, Lots 11 & 12	58.24 acres	$1,165.00
Sec. 25, Lot 13	40.85 acres	163.00
Sec. 30, W½ NW¼	80 acres subject to railroad right of way	1,200.00
NW¼ SW¼	40 " " " " " " "	360.00

Very respectfully,

C. C. MOORE,

Commissioner.

Approved: March 27, 1931.

JOS. M. DIXON,

First Assistant Secretary.

52901

Circular No. 1244

AMENDMENT TO SECTION 1 OF THE STOCK-RAISING HOMESTEAD LAW. STOCK-RAISING HOMESTEAD ENTRIES IN PETROLEUM RESERVES AUTHORIZED.

- - - - 0 - - - -

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

April 3, 1931.

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Registers,

United States Land Offices.

Gentlemen:

The act of February 28, 1931 (Public No. 747), provides:

> "That section 1 of the act entitled "An act to provide for stock-raising homesteads, and for other purposes," approved December 29, 1916, is hereby amended to read as follows:
>
> "That from and after the passage of this act it shall be lawful for any person qualified to make entry under the homestead laws of the United States to make a stock-raising homestead entry for not exceeding six hundred and forty acres of unappropriated, unreserved public lands in reasonably compact form: Provided, however, That the land so entered shall theretofore have been designated by the Secretary of the Interior as 'stock-raising lands': Provided further, That for the purposes of this act lands withdrawn or reserved solely as valuable for oil or gas, shall not be deemed to be appropriated or reserved unless such lands shall be within the limits of the geologic structure of a producing oil or gas field, and any patent therefor shall contain a reservation to the United States of all minerals in said lands, and the right to prospect for, mine, and remove the same: And provided further, That the provisions of this act shall not apply to naval petroleum reserves and naval oil-shale reserves."

The said act permits stock-raising homestead applications to be made for lands withdrawn or reserved solely as valuable for oil or gas, except as hereinafter stated. The act is construed to permit stock-raising homestead applications to be made for lands containing deposits of oil-shale

Circ. 1244

which lands and deposits by Executive order of April 15, 1930, No. 5327, were temporarily withdrawn from lease or other disposal and reserved for the purpose of investigation, examination and classification.

The act requires the rejection of stock-raising homestead applications for lands within the limits of the geologic structure of a producing oil or gas field or within a naval petroleum reserve or a naval oil-shale reserve. Such applications should also be rejected where the land sought is included in an approved oil lease. (See 49 L.D. 312.)

These instructions will be considered as superseding all instructions heretofore issued in conflict herewith, including those contained in paragraph 2 of Circular No. 523, in paragraph 52 of Circular No. 541 and in Circulars Nos. 913, 983, and 1220.

Very respectfully,

C. C. MOORE,

Commissioner.

Approved: April 3, 1931.

JOHN H. EDWARDS,

Assistant Secretary.

52980

Circular No. 1245.

ANNUAL REPORT AS TO UNAPPROPRIATED LANDS

- - - 0 - - -

FILED
UNITED STATES LAND OF
BILLINGS, MONTANA
at MAY 4 - 1931 M

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

#1245 ~~14708~~

1415529

April 9, 1931.

Registers,

United States Land Offices.

Sirs:

Inclosed herewith are blank forms (4-349) upon which you will report, IN DUPLICATE, the area of the unappropriated lands in your district on July 1, 1931, and the character thereof.

You will incorporate in this report a statement showing the aggregate number and area of entries of record in your district upon which final proof of compliance with the law has not been presented.

The data as to the surveyed lands should be obtained from the township plats, but the area of unsurveyed lands must necessarily be estimated. In making such estimates you will subtract from the total unsurveyed area any portion which is within a national forest, national monument, Indian, military or other reservation. Report should not show fractional parts of an acre.

Lands withdrawn for resurveys should be reported as unsurveyed, but the area of entries within the withdrawn townships should be treated as appropriated.

It is essential that your report be forwarded not later than July 1, 1931, and nothing must be allowed to delay it beyond that date.

It is suggested that delay in making the report can be obviated by commencing to check the township plats at an early date, and after the area of unappropriated land in a township has been ascertained and entered on a sheet to be attached to the plat, the noting thereon of the proper debits and credits, as entries are made or relinquished, will make the correct area easily available at the close of business on June 30.

Your attention is invited to the fact that frequently only small areas are found vacant in certain counties. This, if published in the Vacant Land Circular, gives rise to many inquiries as to where these particular small areas are located, and it often happens that neither this office nor your office knows the description thereof. You will, therefore, in all cases where a county is reported as containing less than 500 acres, keep a memorandum of the description of these vacant subdivisions so that inquiries relative thereto may be answered promptly.

(over)

Circ. 1245

Lands in pending unallowed applications or in designated geological structures of producing oil or gas fields, or in approved oil and gas leases should be considered as appropriated; but lands in applications for oil and gas prospecting permits, or in permits granted, or in applications for coal, phosphate, sodium, oil shale, or potash permits or leases or in permits or leases granted, should be considered as unappropriated. In view of the fact that the lands affected by the oil shale Executive order of withdrawal No. 5327, dated April 15, 1930, are subject to disposition under the stock-raising homestead act, you will consider such lands as unappropriated.

You are requested to exercise extra care in making these reports as accurate as possible and to make brief explanations regarding any major changes.

Acknowledge receipt hereof on the inclosed card.

Very respectfully,

C. C. MOORE,

Commissioner.

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P.O. Box 25047
Denver, CO 80225